

Peter Barca - January 31, 2010

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ALVIN BALDUS, CARLENE BECHEN, ELVIRA
BUMPUS, RONALD BIENDSEI, LESLIE W.
DAVIS, III, BRETT ECKSTEIN, GEORGIA
ROGERS, RICHARD KRESBACH, ROCHELLE
MOORE, AMY RISSEEUW, JUDY ROBSON,
JEANNE SANCHEZ-BELL, CECELIA
SCHLIEPP, TRAVIS THYSSEN and CINDY
BARBERA,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE and
RONALD KIND,

Intervenor-Plaintiffs, Case No. 11-C-562
JPS-DPW-RMD

-vs-

Members of the Wisconsin Government
Accountability Board, each only in
his official capacity: MICHAEL
BRENNAN, DAVID DEININGER, GERALD
NICHOL, THOMAS CANE, THOMAS BARLAND,
TIMOTHY VOCKE and KEVIN KENNEDY,
Director and General Counsel for the
Wisconsin Government Accountability
Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS
E. PETRI, PAUL D. RYAN, JR., REID J.
RIBBLE and SEAN P. DUFFY,

Intervenor-Defendants.

DEPOSITION OF PETER BARCA

JANUARY 31, 2010

Brown & Jones Reporting, Inc.
414-224-9533

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1 VOCES DE LA FRONTERA, INC., RAMIRO
2 VARA, OLGA VARA, JOSE PEREZ and
3 ERICA RAMIREZ,
4
5 Plaintiffs,
6
7 -vs- Case No. 11-CV-1011
8 JPS-DPW-RMD
9 Members of the Wisconsin Government
10 Accountability Board, each only in
11 his official capacity: MICHAEL BRENNAN,
12 DAVID DEININGER, GERALD NICHOL,
13 THOMAS CANE, THOMAS BARLAND,
14 TIMOTHY VOCKE and KEVIN KENNEDY,
15 Director and General Counsel for
16 the Wisconsin Government
17 Accountability Board,
18
19 Defendants.
20 -----
21
22 Videotape Examination of REPRESENTATIVE
23 PETER BARCA, taken at the instance of the Defendants,
24 under and pursuant to Subpoena, before JACQUELINE R.
25 RUPNOW, a Registered Professional Reporter and Notary
Public in and for the State of Wisconsin, at Reinhart,
Boerner, Van Duren, 1000 North Water Street, Milwaukee,
Wisconsin, on January 31, 2012, commencing at 9:38 a.m.
and concluding at 2:22 p.m.
A P P E A R A N C E S
GODFREY & KAHN, S.C., by
MR. DUSTIN B. BROWN,
One East Main Street, Suite 500,
Madison, Wisconsin 53701-2719,
appeared on behalf of the Baldus Plaintiffs.

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1 A P P E A R A N C E S C O N T ' D
2 LAW OFFICES OF PETER EARLE, by
3 MR. PETER EARLE,
4 839 North Jefferson Street,
5 Milwaukee, Wisconsin 53202,
6 appeared telephonically on behalf of the Voces De La
7 Frontera Plaintiffs.
8 REINHART, BOERNER, VAN DEUREN, S.C., by
9 MR. DANIEL KELLY,
10 1000 North Water Street, Suite 2100,
11 Milwaukee, Wisconsin 53202,
12 appeared on behalf of the Defendants.
13 WISCONSIN DEPARTMENT OF JUSTICE, by
14 MS. MARIA S. LAZAR,
15 Assistant Attorney General,
16 17 West Main Street,
17 Madison, Wisconsin 53703,
18 appeared on behalf of the Defendants.
19 JAMBOIS LAW OFFICE, by
20 MR. ROBERT J. JAMBOIS,
21 P.O. Box 620321,
22 Middleton, Wisconsin 53562-0321,
23 appeared on behalf of the witness Representative Peter
24 Barca.
25
A L S O P R E S E N T
Mr. John Spohnholtz, videographer, Brown & Jones
Reporting.
Ms. Kelli Nagel, extern, Department of Justice.
Mr. Matt Eggerer, staff member to Representative Peter
Barca.
* * * * *
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* * * * *	
Disposition Of Original Exhibits:	
Exhibits 1036 Through 1039 and 1047 and 1048 were attached to the Original Transcript. Exhibits 1040 through 1046 were copied, with copies going to each counsel, and the originals returned to Mr. Kelly.	
* * * * *	

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1 TRANSCRIPT OF PROCEEDINGS
2 We are officially on the record at 9:38
3 a.m. Today's date is January 31st, 2012. This is
4 disk number one in the deposition of Representative
5 Peter Barca. This deposition is being taken in the
6 matter of Baldus, et al., versus Brennan, et al.
7 This matter is pending in the United States
8 District Court for the Eastern District of
9 Wisconsin, Case No. 11-C-562. This deposition is
10 taking place at the offices of Reinhart, Boerner,
11 Van Duren located at 1000 North Water Street,
12 Milwaukee, Wisconsin.
13 My name is John Spohnholtz, videographer
14 for Brown & Jones Reporting, and the court reporter
15 is Jackie Rupnow. Will counsel please their
16 appearances and whom they represent, beginning with
17 plaintiffs' counsel, and then the reporter will
18 swear in the witness.
19 **MR. BROWN:** This is Dustin Brown with
20 Godfrey & Kahn representing the Baldus plaintiffs.
21 **MR. EARL:** Peter Earle, Law Offices of
22 Peter Earle, representing the Voces plaintiffs.
23 **MS. LAZAR:** Assistant Attorney General
24 Maria Lazar representing members of the Wisconsin
25 Government Accountability Board, their director and

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1 counsel in their official capacities only, together
2 with.

3 **MR. KELLY:** Daniel Kelly of Reinhart,
4 Boerner, Van Duren.

5 **MS. LAZAR:** And also present with me
6 today is a Department of Justice extern Kelli
7 Nagel.

8 **MR. JAMBOIS:** Attorney Robert Jambois
9 appearing representing Peter Barca.

10 **MR. BARCA:** Representative Peter Barca.
11 I'm the Assembly Minority Leader representing the
12 64th District.

13 REPRESENTATIVE PETER BARCA, called as a
14 witness herein, having been first duly sworn on
15 oath, was examined and testified as follows:

16 **EXAMINATION**

17 **BY MR. KELLY:**

18 Q Good morning, Mr. Barca.

19 A **Good morning.**

20 Q Thank you for taking some time out to spend with us
21 this morning. I'd like to begin with just a few
22 housekeeping matters. Have you ever been deposed
23 before?

24 A **Not that I recall.**

25 Q Let me just go through a few of the ground rules

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1 that we try to follow to make sure that we get a
2 good clean record. First is this, although we do
3 have a videographer taking everything down, we also
4 have a court reporter, and we want to make sure
5 that's what's on the transcript, we will eventually
6 be able to go back and read it, so it's important
7 that all of our questions and answers and other
8 kinds of responses would be verbal as opposed to
9 gestures. So, for example, if you agree with me,
10 instead of nodding your head or saying um-hum,
11 better to say yes.

12 A **I understand.**

13 Q Okay. Also, because the court reporter is taking
14 down everything that we say, it's important that we
15 not follow the normal flow of conversation.
16 Normally when we talk with one another, we
17 anticipate where a sentence is going to end, and we
18 start talking before the other person is done, and
19 it's generally not a problem in normal
20 conversation, but in this kind of circumstance,
21 it's important that I wait for you to finish a
22 question before I start asking the next question.
23 It's important for you to wait until I finish
24 asking the question, before you start your answer.
25 Is that fair?

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1 A **I understand, sure.**

2 Q You mentioned, just as we got started, that you
3 were the Assembly Minority Leader in the Wisconsin
4 legislature; is that correct?

5 A **Correct.**

6 Q And your assembly district is which?

7 A **The 64th District.**

8 Q Approximately where in the State of Wisconsin is
9 that?

10 A **It comprises the City of Kenosha and parts of the
11 Town of Somers.**

12 Q How long have you been a Representative in the
13 Wisconsin legislature?

14 A **This is my second stint in the legislature. I've
15 been in the legislature three years in this second
16 period. I was in the legislature for
17 eight-and-a-half years back in the mid '80s through
18 the early '90s.**

19 Q And what did you do between your stints in the
20 legislature?

21 A **I was a member of Congress. I was a member of, a
22 Subcabinet Official in the Clinton Administration,
23 I was the CEO of an organization called North
24 Point. I was the Vice President and President of
25 Aurora Associates International.**

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1 Q Tell me about North Point; what was that?

2 A **That's a nonprofit employment training outfit.**

3 Q And Aurora Associates?

4 A **It's an international project management group.**

5 Q What did you do for them?

6 A **I started off as a Vice President overseeing
7 projects dealing with employment and training,
8 occupational safety and health primarily in
9 southeast Asia and Africa.**

10 Q Prior to your first stint in the Wisconsin
11 legislature, what did you do?

12 A **I started off my career as a teacher and a team
13 leader for programs for emotionally disturbed,
14 children with emotional disturbances, and then I
15 went to graduate school, and I worked as an
16 employment coordinator for a nonprofit center.**

17 Q What did you go to graduate school for?

18 A **I got a joint Master's degree in public policy and
19 educational administration.**

20 Q Is that the highest degree you have obtained?

21 A **Yes, it is.**

22 Q And what undergraduate degree did you have?

23 A **I have an undergraduate degree in exceptional
24 education.**

25 Q From what institution?

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1 **A From UW-Milwaukee.**
2 **(Exhibit No. 1036 was marked.)**
3 **BY MR. KELLY:**
4 Q Mr. Barca, you have been handed what's been marked
5 Exhibit 1036. Can you take a look at that and tell
6 me if you've seen it before?
7 **A And tell you what, I'm sorry.**
8 Q If you've seen it before.
9 **A No, not this exact document.**
10 Q Have you seen one similar to it?
11 **A I mean in the request to appear today, you had**
12 **given me something that looks somewhat similar in**
13 **terms of the Subpoena and Exhibit A. Maybe it's**
14 **the same thing, except for the cover sheet. I'm**
15 **not sure.**
16 Q Okay. You have, however, seen Exhibit A before?
17 **A Yes, I have.**
18 Q And you understood that to be attached to a
19 Subpoena?
20 **A Yes.**
21 Q And did you understand that Exhibit A listed
22 documents that you should bring with you this
23 morning to your deposition?
24 **A Correct.**
25 Q Did you or did you have someone go through each of

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1 the seven paragraphs on Exhibit A and search for
2 documents that would be responsive?
3 **A Yes, I did. I had my Chief of Staff Rich Judge and**
4 **one of my senior staff people, Matt Eggerer, go**
5 **through and they compiled the documentation that**
6 **you asked for in conjunction with my attorney Bob**
7 **Jambois.**
8 Q And you brought that here this morning?
9 **A Yes, we did.**
10 Q And at the moment it's sitting next to your
11 assistant in a box and some rolled up papers?
12 **A Correct.**
13 Q We'll return to those later.
14 **(Exhibit No. 1037 was marked.)**
15 **BY MR. KELLY:**
16 Q Mr. Barca, you've been handed what's been marked as
17 Exhibit 1037. Could you take a look at that and
18 tell me if you've seen that before.
19 **A No, I have not.**
20 Q I'll represent to you that these are the Rule 26
21 Disclosures made by the Baldus plaintiffs in this
22 case. And if you'll turn to the second page, up at
23 the top, do you see your name?
24 **A Yes, I do.**
25 Q The plaintiffs have represented that you have

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1 information related to the effects of
2 redistricting, political drafting, and mapping
3 process for Acts 43 and 44 and minority
4 participation. Do you see that?
5 **A Yes, I do.**
6 Q Did you talk with anyone, any of the Baldus
7 plaintiffs or any of their counsel, about knowledge
8 that you have about these topics?
9 **A In terms of the Baldus plaintiffs, no, and what**
10 **else?**
11 Q Any of their attorneys.
12 **A No, other than there were numerous times over the**
13 **past year where they gave us little updates in**
14 **terms of timeline of where the courts might be at.**
15 Q They being who?
16 **A Meaning the attorneys for the plaintiffs.**
17 Q And which ones in particular did you speak with?
18 **A Are they listed here somewhere?**
19 Q I'll give you few names and see if they refresh
20 your recollection. Doug Poland?
21 **A No.**
22 Q Rebecca Mason?
23 **A Yes.**
24 Q Brady Williamson?
25 **A Yes.**

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1 Q When did you first begin talking with any of the
2 attorneys for the Baldus plaintiffs about
3 redistricting?
4 **A I really don't recall exactly. I would say, let's**
5 **see, perhaps May or something along that line.**
6 Q May of 2011?
7 **A Right, but I don't recall exactly. Somewhere**
8 **within that timeframe I would guess, somewhere in**
9 **the spring.**
10 Q Do you recall what the reason was for you to be
11 talking with the Baldus plaintiffs?
12 **A Well, only that, as you're aware, back on January**
13 **4th in the Assembly Organization Committee quite to**
14 **our surprise and dismay, the Republicans came in**
15 **and decided to give themselves unlimited money for**
16 **counsel and consultants, and to deny the minority**
17 **party or any other political party or the public,**
18 **for that matter, any access to any counsel, any**
19 **consultants. So, as a consequence, we had no**
20 **access to anybody that really could be of any help**
21 **to us, and we had requested that rather than the**
22 **Republicans take unlimited funds and resources that**
23 **they be given to legislative counsel attorneys, and**
24 **that a public attorney be hired so that not only**
25 **the Democrats, but any other political public or**

1 any member of the public, for that matter, would
2 have access to the legal reports being brought
3 forward and consultants and things of that sorts,
4 so that we could actually participate in the
5 process, because at the time the Organization
6 Committee Speaker Fitzgerald had indicated that
7 this would be treated like any other bill. They
8 would have a hearing, they would pass it, and so we
9 said well, that's great, so let's have a counsel be
10 just like any other bill, and let's have the public
11 as well as the minority party and any other
12 political party in the state have access to this
13 process. We were denied that.

14 Then Senator Miller and I sent a letter
15 to Speaker and Majority Leader Fitzgerald
16 requesting that they reconsider that, so that you
17 could have a full political process that would take
18 place. They rejected that. So we actually had no
19 attorneys to represent us or anything of that sort.
20 Then I heard that there was a suit that was being
21 considered and, you know, so at that point I
22 understood that the law firm of Godfrey & Kahn
23 potentially to be representing a group of
24 plaintiffs, and so we met with them and they gave
25 us an update in terms of what might transpire.

1 Q Did they seek any information from you?
2 A No. I mean other than just, you know, have we
3 heard anything about where a bill might be at, do
4 we know, you know, have we heard anything in regard
5 to what the timeline might be, which of course we
6 had heard nothing. The Republicans did a very good
7 job of keeping this completely outside of the
8 public purview and not letting anybody in the
9 public, for all I know, know what they were doing,
10 what their timeframe was, what a map would look
11 like.

12 Q With respect to --

13 A When I say, I'm sorry, let me just clarify, when I
14 say a very good job, I don't mean very good from a
15 public policy standpoint. I think it was a
16 horrible thing from a public policy standpoint, but
17 I mean very good from their partisan political
18 interest.

19 Q Was there anything untoward about partisan members
20 of the legislature acting in a partisan fashion?

21 A I don't think there is anything untoward about
22 acting in a partisan fashion, but I think there is
23 something very untoward about drafting a map
24 completely outside of the public purview and
25 without involving the public in any process

1 whatsoever until you spring it, you know, upon the
2 public 12 days before you actually pass it all the
3 way through the legislature. The part that I find
4 very untoward and very unfortunate, and that's why
5 I think every editorial board across the state or
6 most editorial boards across the state
7 editorialized against it, is it's a very closed
8 process, very partisan, and not in keeping with
9 Wisconsin values and tradition of involving the
10 public in that process and so the public, much less
11 minority members or I don't know if the independent
12 member was involved or not, I'm not privy to that
13 information, although he voted no, so probably not
14 I guess, but the fact that you would do this
15 completely without any public input whatsoever I
16 think is very untoward.

17 Q What public participation did you anticipate?

18 A Well, what I anticipated -- typically when the
19 Speaker indicated it would be handled like any
20 other bill, typically you have a hearing and
21 collect public input, and then that public input is
22 utilized to bring forward the legislation or make a
23 judgement as to the legislation that's before you,
24 where in this case, as you probably are aware, they
25 introduced the bill on January 11th, two days later

1 they had a public hearing, two days later they
2 passed the map, which I believe was identical to
3 what they had at the public hearing, despite the
4 fact of any people testifying against it and
5 raising concerns with, you know, the map and with
6 the process. So what I would say is that I think
7 that it, you know, from the standpoint of involving
8 the public or, you know, taking public input into
9 consideration, that did not happen at all as far as
10 I know.

11 Q Are you familiar with the standards that need to be
12 met in redistricting?

13 A I think, yes, I have a pretty good sense of that,
14 although I wouldn't consider myself an expert, but
15 I've been through redistricting before as a
16 legislator back in the '91 session, I guess it
17 would be, and I was the Majority Caucus Chairman
18 during that period.

19 Q What is your understanding of the traditional
20 redistricting principles?

21 A Well, the principles that I'm familiar with are
22 that you're supposed to represent communities of
23 interest and hold together people that have a
24 natural commonality towards public policy, that
25 you're supposed to respect minority participation,

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1 and be enable to ensure that minorities have
 2 representation in the process proportionate to
 3 their share of the population. It's my sense that
 4 you're supposed to minimize the number of people
 5 that you disenfranchise in the process, so that
 6 people are able to not be cut out of their process
 7 to be able to vote for their elective
 8 representatives. Those would be some of the basic
 9 principles that come to mind immediately.
 10 Q Any others that you're aware of?
 11 A Oh, there are others I'm sure, and they're not
 12 coming to me immediately. Those are the major
 13 ones, I would say, but I'm sure there must be
 14 others. I know there are.
 15 Q And let's go through the elements that you listed.
 16 Starting with the communities of interest.
 17 A Um-hum.
 18 Q What participation do you think public should have
 19 had with respect to communities of interest that
 20 they did not have?
 21 A Well, you know, if you have a public hearing well
 22 in advance of when you anticipate passing a bill,
 23 then you can -- you know, people that feel as
 24 though their community of interests are not
 25 represented, they can come to the Capitol, they

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1 can testify, they can send letters, they can make
 2 phone calls, and then legislators can take into
 3 account that input and make adjustments
 4 accordingly.
 5 In addition to that, of course, you know,
 6 the media, the editorial boards play a very big
 7 role. I know that in my home area of Kenosha, for
 8 instance, and in Racine, which I also represented
 9 in Congress, both editorial boards wrote extremely
 10 strong editorials saying how they felt that you
 11 should continue to have State Senators that
 12 represented strictly or basically Kenosha County
 13 and basically Racine County, which I think has been
 14 the practice for probably 100 years. So, you know,
 15 those editorials were written.
 16 There were editorials written similarly
 17 in Beloit and Marshfield and Sheboygan and Green
 18 bay and Madison and Milwaukee decrying the process,
 19 and Beloit, for instance, which I also represented
 20 in Congress, and I'm not quite as familiar with the
 21 history, but I believe for decades and generations,
 22 Beloit was represented by one state representative
 23 and now they've the cut the community in half. So
 24 I think that they felt that their -- they were not
 25 being as well represented through that type of a

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1 process. I believe something similar happened in
 2 Marshfield and somewhere in eastern Wisconsin, I
 3 didn't have a chance to really go back through
 4 notes or anything, but maybe it's in Sheboygan or I
 5 forget what city, but there were many communities
 6 throughout the state that felt that their community
 7 of interests were being disrespected and,
 8 therefore, wrote rather critical, extremely strong
 9 editorials about that process, that their community
 10 of interests were not represented. I know at the
 11 hearing, I did participate in the hearing, I don't
 12 believe I testified, but I sat there for a good
 13 portion of the hearing, and I had heard from
 14 minority communities, from people representing the
 15 Hispanic community and African-American community
 16 that felt that their community of interests were
 17 not being well represented either.
 18 I know that there was a major issue in
 19 terms of the Hispanic community that -- stating
 20 that they felt that you didn't have a large enough
 21 percentage of Hispanics in one of the Assembly
 22 districts to assure Hispanic representation. I
 23 know that in the African-American community there
 24 was testimony of the effect that they felt that
 25 there -- I'm not sure I'm going to get this exactly

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1 right, but that, you know, there was packing going
 2 on and that perhaps you could have another
 3 African-American seat. That one I'm not quite as
 4 specific about. I didn't actually hear that
 5 testimony. Had to leave for another meeting prior
 6 to hearing that, but that's my understanding. So
 7 in term of community of interest that would be my
 8 -- on that narrow point, that would be my, you
 9 know, just rough summation without going into too
 10 much detail.
 11 Q Editorials, are they a form of public
 12 participation?
 13 A Yes, they are. I mean typically legislators in my
 14 history, going back over 25 years, typically
 15 legislators look very carefully at editorials and
 16 take that into account in terms of legislation that
 17 they bring forward or amendments that they might
 18 consider.
 19 Q And you mentioned that there were many, many
 20 editorials on this topic?
 21 A Yes. Virtually every one that I read was very
 22 critical, both of the process and the outcome.
 23 Q So that was some measure of public participation?
 24 A Yes, it was, although it wasn't -- in terms of
 25 people were able to give their say in terms of

1 saying this is a problem, but that opinion was not
2 respected in the final document. To the best of my
3 knowledge, virtually no changes were made. Heck, I
4 don't know if there were any changes, I guess there
5 was one amendment adopted, but that was not taken
6 into account in the final product.

7 Q So when you --

8 A I think people -- excuse me, if you don't mind me
9 finishing, I think when people offer their
10 viewpoints, it's not just that they want to feel
11 good about the fact that they got to say something.
12 I think their hope is as citizens that their
13 viewpoint will be reflected in the legislation, you
14 know, that governs them. After all, we are
15 supposed to be a government of the people, by the
16 people, for the people.

17 Q So is it your position that there is no effective
18 public participation unless the legislature adopts
19 what the editorials or the members at the public
20 hearings say?

21 A My position would be that if you have a chorus of
22 people all singing in concert with strong
23 opposition, that you should at least attempt to
24 take that into account and reflect it in the final
25 product, so that you would perhaps amend the

1 document in a significant way to represent the
2 viewpoints that you have, that you're hearing from
3 people, in this case, particularly since there were
4 so many editorials all essentially saying the same
5 thing, that, you know, decrying the process, which
6 we are not talking about yet so I won't go into
7 that at this point, but also the outcome, and since
8 we talked about community of interests, of saying
9 that they believe that community of interests were
10 not respected.

11 Q Is it possible that someone could in good faith
12 disagree with the editorial boards of the various
13 newspapers?

14 A Oh, of course.

15 Q And is it possible that the legislature could in
16 good faith adopt a map that does not agree with the
17 editorial boards of the various newspapers?

18 A You could, yes.

19 Q You mentioned that there was one amendment to Act
20 43. Do you recall what that amendment was?

21 A No. I mean to be frank, I don't have it in front
22 of me so I don't recall exactly what it was.

23 Q Do you recall that it dealt -- I'm sorry. Do you
24 recall that it dealt with the Latino Assembly
25 Districts 8 and 9?

1 A I do recall that there was an amendment dealing
2 with those two Assembly districts. I do recall
3 that. I recall that because on the day I think
4 before the hearing, if I'm not mistaken, I had
5 talked with the members of the Latino community,
6 Representative Jocasta Zamarripa is the
7 Representative that represents that area as is
8 Representative Josh Zepnick currently, and she, of
9 course, had been very involved in the process, you
10 know, and followed and tracked it very closely with
11 the county board seats and Aldermanic seats leading
12 up to the state legislature, and obviously takes a
13 very keen interest as the only Latino member of the
14 legislature, and she had asked in her request and
15 others, I had talked with a number of people from
16 that community, who indicated that there would be
17 an amendment being brought forward and some of them
18 felt that the legislature was attempting to get
19 them to testify in favor of the plan in order to
20 get this amendment adopted. So there was a lot of
21 concern about, you know, this amendment because
22 they -- even with the amendment they still felt
23 that whichever amendment, if they went with the
24 original map or the amendment, they felt that they
25 still were not doing justice to the Hispanic

1 community in terms of ensuring Latino
2 representation in the legislature.

3 Q In your answer you referred to "they". Who would
4 they be?

5 A I don't recall exactly the names, like Juan Carlos
6 Ruiz I think is somebody I talked with. I mean
7 since this time and subsequent to that, I've talked
8 to people in the Latino community. I think he was
9 sort of the leader of the group, as I understand,
10 because he was just up in the Capitol again I think
11 about a few weeks ago concerned with another -- the
12 lead paint issue, so his name stands out, but I
13 mean I've talked to a number of people. You know,
14 at the hearing they had a fairly large group of
15 people representing the Latino community.

16 Q Do you know at whose request the amendment
17 addressing the Assembly Districts 8 and 9 was made?

18 A No, I do not. I don't have any idea. I mean as I
19 indicated earlier, I actually have almost no
20 knowledge how they put any of this together. I
21 mean, you know, for all I know it could have been
22 put together at Michael, Best & Friedrich law firm.
23 It didn't appear that -- I mean since there was no
24 public input prior to January 8th, we had
25 absolutely no idea what a map might look like, I

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1 **doubt anybody in the public outside of the inner**
2 **circle of Republicans would have had any idea.**
3 Q January 8th of what year?
4 A **January 8th of 2011 is when the draft versions**
5 **became publicly available apparently.**
6 Q What members or representatives --
7 **MR. JAMBOIS:** Excuse me, January or July?
8 **THE WITNESS:** July 8th, excuse me. Thank
9 you very much. Thank you for correcting it. No,
10 July 8th, 2011 is -- I have a timeline here I'm
11 referring to, that I can certainly give you a copy
12 of, just to help me try to recollect the timeline
13 here. It was July 8th the draft versions were
14 being made publically available, and July 11th, the
15 Senate Org Committee introduced it and July 13th,
16 two days later, they had a hearing, and then two
17 days later they voted it out of committee, and, you
18 know, so.
19 **BY MR. KELLY:**
20 Q What members or organizations affiliated with the
21 Latino community did you speak with about the
22 Assembly Districts 8 and 9?
23 A **I think the group that in my sense was most**
24 **prominently representative was the Voces De La**
25 **Frontera, but I don't know. To be frank, I'm not**

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1 **that familiar with all of the various organizations**
2 **and how they interrelate.**
3 Q Was there any other Latino organization you spoke
4 with?
5 A **To be frank, I don't know who was representing what**
6 **organization, so I couldn't say.**
7 Q What was your understanding of the Latino
8 community's reaction to Assembly Districts 8 and 9
9 as they originally appeared in Act 43?
10 A **My sense is that they were not pleased with the**
11 **original version or with the amendment version.**
12 Q And when you say "they," you mean Voces De La
13 Frontera?
14 A **I mean the -- I would have to say in terms of the**
15 **people that testified at the hearing that I**
16 **participated in, there might have been 30, 40**
17 **people there, I'm not sure exactly how many, but**
18 **the vast preponderance of them, I don't know if**
19 **that came from that particular organization or some**
20 **of them were there from a different organization,**
21 **but my sense is that the preponderance of the**
22 **people there, there may have been one or two**
23 **Hispanics that testified the other way, but I don't**
24 **know even know if that's the case, to be frank.**
25 Q Did you talk to anybody who favored the

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1 configuration of Assembly Districts 8 and 9 in the
2 original Act 43 or as amended?
3 A **No.**
4 Q Why not?
5 A **They didn't reach out to me. You know, people who**
6 **-- this whole process happened so quickly, and**
7 **obviously for us not having access to any legal**
8 **representation or any consultants, and even the leg**
9 **counsel, we had talked to Terry Anderson the**
10 **director to see to what degree they might be able**
11 **to be helpful, and they indicated to us they could**
12 **be of very limited help, that they had nobody on**
13 **staff that really had any expertise in this area to**
14 **speak of. And so when you think through that**
15 **timeline from January 11th when the first hearing**
16 **was held until January 20th when the bill was taken**
17 **up and passed in the Assembly, you're talking about**
18 **nine days. So there was virtually no time to talk**
19 **to anybody other than some of the groups that**
20 **called my office or reached out to me directly or I**
21 **had a member of my caucus that said you really need**
22 **to talk to this person, so I did not proactively**
23 **try to reach out to people other than those that**
24 **were reaching out to me. I talked with whoever I**
25 **could, and I'm sure I didn't even talk to all of**

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1 **them, because there was so much going on during**
2 **that period.**
3 Q So your sense of the Latino community's reaction to
4 Act 43 is based on who reached out to you?
5 A **Yes, and based on -- also, based on being at that**
6 **hearing and seeing how many people were there. The**
7 **room was packed, and for that -- so for that**
8 **percentage of the people that were there from the**
9 **Latino community, the fact that I would think 90**
10 **percent, maybe 100 percent, for all I know,**
11 **although I think somebody may have testified the**
12 **other way, I don't know for a fact, but certainly**
13 **the vast preponderance of the people, probably**
14 **about 90 percent all were opposed to this and the**
15 **amended version.**
16 Q What do you know about the African-American
17 community's response to Act 43?
18 A **I talked with somebody who I believe was with the N**
19 **double A C P, and I don't recall that person's**
20 **name, but I also talked to somebody the day of the**
21 **hearing as well, and this individual who is a**
22 **leader with that organization represented to me**
23 **that they were very -- very strongly opposed to the**
24 **bill, that they felt it did not do justice to the**
25 **African-American community.**

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1 Q You don't remember the person's name?

2 A I don't. No, I apologize, I don't remember. The

3 leadership has changed since I was in the

4 legislature before, and at that point I had only

5 been back for two years.

6 Q You don't remember the organization that he was

7 affiliated with?

8 A I'm 95 percent certain it was the N double A C P.

9 Q What was his concern about the African-American

10 districts?

11 A My understanding is that they felt that -- well,

12 let me see, two things is my sense of it. One is

13 that they had participated in what I guess is

14 referred to as packing, where you pack like 80

15 percent of the African-Americans in a district, or

16 90 percent, and so as a consequence, you make for

17 seats that assuredly will be represented by an

18 African-American, but you go further than you need

19 to where you may be able to create an additional

20 African-American seat and still be assured of

21 strong African-American representation. So then

22 the second issue was that -- was that suburban

23 seats or that virtually no other members in

24 Suburban Milwaukee would be representing hardly any

25 African-Americans was another issue, but I'm far

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1 less familiar with that argument than I am with the

2 first argument, and I know that from my service the

3 last time we had redistricting that there has

4 always been an issue of how many African-American

5 seats, unquote, unquote, can you actually create,

6 so that was the issue.

7 Q Do you know how many majority minority

8 African-American seats Act 43 created?

9 A I don't know the number offhand.

10 Q Do you know what percentage of African-American

11 population was in each of the majority minority

12 African-American seats created by Act 43?

13 A I don't know precisely, but I know it was a very

14 high percentage.

15 Q How do you know it was a high percentage?

16 A Because that was relayed to me by members of the

17 African-American caucus, and so that's how I would

18 know.

19 Q What would you consider to be a high percentage?

20 A I don't have a real sense of that, to be frank.

21 I'm just trusting what was told to me by people wh

22 are African-American members of the legislature who

23 I rely upon for their judgment.

24 Q Where would you go to find out what a high

25 percentage is?

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1 A Well, I mean if I were going to do, you know, an

2 empirical study, I guess I would look at court

3 cases and things of that sort, but you know, in

4 terms of like making a judgment on a bill before

5 us, I would rely upon the N double A C P, which has

6 long been, you know, highly reputable and

7 recognized by African-Americans generally as

8 representing their interests and members of the

9 African-American, you know, delegation, generally.

10 Q Did anyone testify about what the percentage of

11 African-American population would be in the

12 majority minority seats created by Act 43?

13 A I believe so, but I couldn't say for certain. As I

14 indicated, I left the hearing prior to being able

15 to hear the testimony of the N double A C P.

16 Q Would you consider 60 percent African-American

17 population in a majority minority seat to be

18 excessively high?

19 A I couldn't say. I honestly would not consider

20 myself expert enough to really be able to make that

21 judgment.

22 Q Was it your understanding that the individuals with

23 whom you spoke about the African-American districts

24 believed that there ought to have been more

25 majority minority seats?

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1 A Yes, that's my understanding.

2 Q But you don't know how many more?

3 A I don't know offhand. I would guess one, but I

4 don't know.

5 Q Would you know if there is sufficient population in

6 the African-American community to create another

7 African-American majority minority seat?

8 A That's the sense that I have from, you know, the

9 information that was given to me by my staff

10 through, you know, their listening to the N double

11 A C P testimony, and talking, you know, the input

12 that they received from, you know, the

13 African-American caucus.

14 Q And if the plaintiffs' experts on this topic said

15 that there was -- the African-American community

16 was not sufficiently large to create another

17 African-American majority minority district, would

18 you have any reason to question that?

19 A If -- excuse me, so can you repeat the question?

20 Q Um-hum. If the plaintiffs' expert witness on this

21 question were to say that the African-American

22 community was not large enough to create another

23 African-American majority minority Assembly seat,

24 would you have any reason to question that?

25 A I really can't speak. I just don't feel I have

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1 enough information or knowledge to really speak to
 2 that, to be frank. I would just be speculating,
 3 and I'd rather not do that.
 4 Q Would you defer to the plaintiffs' expert on that
 5 question?
 6 A I couldn't even speak to that. I don't know who
 7 the expert is. I don't know enough about who is
 8 being -- you know, who else is being deposed, who
 9 is offering testimony. I just really don't know,
 10 to be frank.
 11 Q Have you ever heard of Professor Ken Mayer?
 12 A I have heard of Professor Ken Mayer.
 13 Q Who do you understand him to be?
 14 A I believe he's been affiliated with the University
 15 of Wisconsin system.
 16 Q Do you know if he has a background in redistricting
 17 matters?
 18 A I believe he does.
 19 Q If he were to tell you the African-American
 20 community was insufficiently large to create
 21 another African-American majority minority district
 22 seat, would you defer to him?
 23 A I would not defer solely to him, no. And to be
 24 frank, I don't even know if he's testifying on
 25 behalf of one party or the other. I actually don't

Page 35

1 even know, to be frank.
 2 Q That's fair. One of the other traditional
 3 redistricting principles that you mentioned was
 4 minority participation. Is there anything other
 5 than what we've discussed so far that you would put
 6 in that category?
 7 A In terms of minority participation?
 8 Q Um-hum.
 9 A You mean other than let's say the African-American
 10 or Hispanic population?
 11 Q Yes.
 12 A Certainly I think you should look at every minority
 13 group to see whether or not there is an issue
 14 there, whether it's Native Americans or, you know,
 15 Asians or other populations. I'm not aware of any
 16 issues there, to be frank, though.
 17 Q You also mentioned delayed voting as one of the
 18 traditional redistricting principles that one
 19 should be aware of in creating new legislative
 20 districts now; is that right?
 21 A Referred to delayed voting?
 22 Q Delayed voting, sometimes referred to as
 23 disenfranchisement.
 24 A I'm familiar with that issue.
 25 Q What is that issue?

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1 A Well, my understanding is that with the map that
 2 the Republicans passed that over 300,000 people
 3 were disenfranchised and I'm -- you know, the sense
 4 I have from sort of the, quote, unquote, good
 5 government groups, like the Common Cause or League
 6 of Women Voters, you know, a group did produce a
 7 map where they had significantly less
 8 disenfranchisement, and I'm told that in this
 9 modern era that you should not need to have
 10 anywhere near that number of people
 11 disenfranchised.
 12 Q Do you know what factors affect the number of
 13 people who will experience delayed voting?
 14 A There can be -- my understanding is there can be a
 15 wide variety of factors.
 16 Q Like what?
 17 A Well, for instance, if I were trying to create a
 18 map to purposefully create a strong Republican or
 19 strong Democratic district, I may make that be a
 20 secondary or tertiary factor and not worry as much
 21 about disenfranchising and worry more about
 22 ensuring that one political party could win an
 23 election would be one issue. Another issue might
 24 be that, you know, creating minority districts
 25 according to, you know, the Constitutional

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1 principles that you could have certain
 2 disenfranchisement as a consequence of that as
 3 well.
 4 Q Would it be illegitimate to have some delayed
 5 voting as a consequence of complying with the
 6 Voting Rights Act?
 7 A I think that it -- my sense is it's relative to the
 8 numbers of people that you disenfranchise versus
 9 those that you need to. I mean I don't believe you
 10 could ever have a map that would have not one
 11 single person disenfranchised, but the goal is to
 12 minimize that. And, you know, the concern, the
 13 point that seemed to come out very strong during
 14 that period and subsequent to that was just that
 15 there were far more than need to be
 16 disenfranchised. That's what I heard.
 17 Q Would it be legitimate to take into account
 18 communities of interest as being a higher priority
 19 in some circumstances than delayed voting?
 20 A I'm sure that could be another factor. I don't
 21 know in terms of how the courts had balanced these
 22 factors in terms of whether or not to what degree
 23 of weight they've placed on each one.
 24 Q The people that have expressed some concern to you
 25 with respect to delayed voting, did they tell you

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1 what other factors caused that number to be what it
 2 is?
 3 **A No. I mean I did not go into that level of depth**
 4 **of discussions with any one group. But I mean just**
 5 **through my involvement in the process over the**
 6 **years, I have a sense of that, but no, I can't say**
 7 **I had discussions where, you know, that went into**
 8 **that level of detail.**
 9 **Q** Following the 1990 census, was there a legislative
 10 redrawn map for the State of Wisconsin or was it
 11 drawn by a court, do you know?
 12 **A I believe it was drawn by a court.**
 13 **Q** Do you know how many people experienced delayed
 14 voting as a consequence of the map that the court
 15 drew following the 1990 census?
 16 **A I don't know precisely.**
 17 **Q** Do you know if after the 1980 census, whether the
 18 legislature or a court drew the first redistricting
 19 map?
 20 **A It's my understanding the court drew that as well,**
 21 **but I was not in the legislature during that period**
 22 **and no, I didn't follow it very intently.**
 23 **Q** Do you know how many people would experience
 24 delayed voting under the map drawn by the court
 25 following the 1980 census?

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1 **A No, I really have no sense of that.**
 2 **Q** Do you think it would be relevant information in
 3 judging whether Act 43 causes too many people to
 4 have delayed voting to look back at what the courts
 5 have done on that topic in the past?
 6 **A Well, I'm sure you should look at what the courts**
 7 **have done in the past, but I would think that the**
 8 **1980s would have far less relevance because you**
 9 **have computers today and you're able to be much**
 10 **more precise in drawing districts than you could**
 11 **back in the '80s or even the '90s.**
 12 **Q** We had computers in the '90s, yes?
 13 **A You did, although I don't think you had the kind of**
 14 **software that's nearly as exact and knowing where**
 15 **these numbers are is my sense of it, my strong**
 16 **sense of it.**
 17 **Q** And from where do you get that strong sense?
 18 **A Just in, you know, hearing testimony, talking with**
 19 **various groups, you know, is that my sense is, you**
 20 **know, from groups like Common Cause and others, you**
 21 **know, we sort of recognize as non-partisan good**
 22 **government groups, the sense I have from them is**
 23 **that you should be able to draw a map that**
 24 **disenfranchise far less people than you did in the**
 25 **'90s when you had computers but maybe not the**

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1 **sophisticated software or the '80s when you didn't**
 2 **even have computers to do this kind of task.**
 3 **Q** Has anyone ever shown you a map as an alternative
 4 to Act 43 that would have less delayed voting
 5 effects?
 6 **A My sense of it is that the map that the Common**
 7 **Cause group, when I say Common Cause group, I don't**
 8 **know if it was them specifically or was a number of**
 9 **groups put together, but there was an alternative**
 10 **map that was circulated that it's my understanding**
 11 **disenfranchised far less people.**
 12 **Q** And when did you see this map?
 13 **A I don't recall precisely. I'm sure it was**
 14 **somewhere around this July timeline, but I don't**
 15 **have any recollection, in fact, of when it**
 16 **appeared.**
 17 **Q** Before or after adoption of Act 43?
 18 **A I don't recall. I believe it was before, though.**
 19 **Q** And who drew that map?
 20 **A It's my sense that it's, you know, that it was like**
 21 **Common Cause and these other, you know, good**
 22 **government groups.**
 23 **Q** Do you know of any specific individuals who were
 24 affiliated with that effort?
 25 **A I don't. I mean I know who -- I know many of the**

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1 **people who participated in these organizations, but**
 2 **I have no idea who would have drawn it specifically**
 3 **or who -- I don't even know who was involved**
 4 **specifically in coming to a decision that they**
 5 **might produce a map. I just didn't go into that**
 6 **level of depth. And again, if you don't mind, you**
 7 **know, I would say that part of it is that, you**
 8 **know, it just came up so suddenly. All of a sudden**
 9 **in July, we passed the budget at the end of June,**
 10 **and you know, typically that period in July and**
 11 **August are slow periods for the legislature. It's**
 12 **usually when you sort of catch your breath and get**
 13 **caught up with constituent issues back home, and**
 14 **spend more time back in your district. So we had**
 15 **no sense that, you know, a week and a half or**
 16 **whatever it might have been after passing the**
 17 **budget all of a sudden a map would appear, and that**
 18 **their intent would be to ram it through in less**
 19 **than two weeks.**
 20 **Q** Did anyone in the Republican caucus introduce the,
 21 what you've been referring to as the Common Cause
 22 map as an alternative to Act 43?
 23 **A Anyone in the Republican caucus?**
 24 **Q** Um-hum.
 25 **A No, I don't think the Republican or Democratic**

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1 caucus was at all involved in this other outside
2 process.
3 Q But you saw that Common Cause map prior to the
4 adoption of Act 43?
5 A I believe so. I believe so. But I don't have any
6 specific recollection, to be frank, of exactly when
7 that appeared. I mean that period was so condensed
8 and it's sort of like a blur, frankly.
9 Q Was it your understanding that -- well, let's not
10 do that question. I'll do another one that's
11 better.
12 A Sure.
13 Q Did you like the Common Cause map better than Act
14 43?
15 A I really -- I don't know. To be frank, I never had
16 a chance to really analyze it in any depth and so.
17 Q Did you make --
18 A I have no sense of exactly what was even in that
19 map, to be frank.
20 Q Did you make any effort to analyze that Common
21 Cause map?
22 A No, I didn't because, you know, it was pretty clear
23 by July that Republicans would never entertain any
24 amendments or any input the Democrats had to
25 provide, so there was really no point in this. Up

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1 until that point, I don't know we might have had
2 400 amendments roughly and they rejected every
3 single one except for one. So there was no doubt
4 in my mind that it would be fruitless for me to try
5 to analyze that map or even if I would have had the
6 resources, which clearly we had no resources, that
7 to try and produce something, it was clear to me
8 they would never adopt it.
9 Q To what 400 amendments are you referring?
10 A I'm just saying throughout the process, from
11 January through June, virtually every bill that
12 came forward, Democrats did not want to seem like
13 obstructionists, so we typically would bring
14 forward amendments as alternatives to modify the
15 various bills that the Republicans had offered,
16 whether it was health savings accounts or tax
17 credits for business, or, you know, drinking laws
18 or gun laws or whatever it might be, and you know,
19 the practice of the Republicans had followed had
20 been to reject every single amendment by Democrats
21 in almost every case just by a complete, you know,
22 every Republican voting to table it.
23 Q At what point did the Democratic caucus decide that
24 it no longer wished to submit amendments in the
25 legislative process?

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1 A Well, we continued to submit amendments despite the
2 fact that we, you know, know that they won't be
3 adopted whenever we think we have enough time to
4 put together something meaningful that we can make
5 some sense.
6 Q Is there -- if the Democratic caucus continued to
7 offer amendments in the legislative process, even
8 knowing that they're not going to be adopted, is
9 there a reason that the Democratic caucus did not
10 introduce the Common Cause map as an amendment?
11 A Well, only that this timeline from July 11th when
12 they introduced the maps until July 20th, you know
13 that nine-day period, even adding in the three days
14 when they made a draft bill available, you know, if
15 you even go back to that, you've got a total of 12
16 days, and analyzing a map or drawing a map takes
17 resources and energy and time, and unlike a typical
18 bill where legislative counsel, you know, where
19 they have experts in every subject area, whether
20 it's criminal justice or economic development or
21 whatever it may be, we just didn't have any
22 resources available to us so we could make an
23 analysis of whether or not we thought that would
24 be, you know, the best map or even a meaningful map
25 to offer, that would be a credible alternative, so.

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1 That's the reason why we just didn't feel we had
2 the resources to even understand what that map
3 entailed.
4 Q What resources did Common Cause have to develop the
5 map that they created?
6 A I have no absolutely no idea. I don't know if they
7 have resources where they hired an attorney. I
8 have no idea if they had any consultants. I have
9 no understanding what the expertise of their staff
10 is. I just have no idea, nor do I know the -- you
11 know, in terms of the map itself, it's my
12 understanding that at least it disenfranchised less
13 people. Beyond that, I have no idea to what degree
14 it protected community of interests or things of
15 that sort. I would assume that they would attempt
16 to do all those things, but I have no idea.
17 Q Did you or anyone else in the Democratic caucus
18 reach out to the Common Cause and ask them to
19 assist you in developing amendments to Act 43?
20 A Not to my knowledge. Now there could be, there is
21 certain members of the caucus that are a little bit
22 more involved, people that would serve on the
23 elections committee, for instance, that take more
24 of an interest, so I have no doubt that members of
25 my caucus did talk to Common Cause, but I doubt

1 that in that short window of opportunity we had
2 they, you know, felt they would have had sufficient
3 time. I mean in the caucuses that we had and the
4 discussions I had, nobody really said look, I think
5 we can actually put together a credible map, or
6 this map I think it would really make some sense,
7 let's make sure we put this forward as an
8 alternative. So nobody really made a strong pitch
9 that we ought to consider doing that, and I think
10 it's just because my sense is nobody in the caucus
11 felt like we had the kind of resources and time to
12 really put together a viable alternative.

13 Q And you didn't think it would be an option to reach
14 out to an organization like Common Cause who
15 apparently was able to create an entire map before
16 Act 43 was adopted to see if they --

17 A As I indicated, I'm sure that there were probably
18 one or two members of the caucus that probably
19 talked to them, but it does take -- to produce a
20 map that would meet all these Constitutional
21 standards that I know courts have looked at
22 historically does take a considerable amount of
23 analysis. Even to somebody like myself that has
24 served in now my fourth term in leadership, you
25 know, someone that takes a great interest in every

1 element of public policy, you know, this is a more
2 complicated issue than many issues, most issues
3 probably that we deal with, because it is a heavily
4 litigated issue. So it takes considerable
5 resources and time to really study all the myriad
6 elements even that I brought up, and, you know, and
7 there are many other factors that I know the
8 Supreme Court looks at.

9 Q And do you know if Common Cause considered all of
10 those factors that the courts look at in
11 determining what constitutes a legitimate map?

12 A I don't know. I would think that they would try.
13 But I have no idea to what degree they did.

14 Q You didn't ask?

15 A I didn't personally ask them, no.

16 Q Is there anyone in particular that you know that
17 did ask?

18 A I don't know. I mean I know that -- I'm sure that
19 there are a couple members of our caucus, a number
20 of the members of our caucus that talk probably
21 more regularly with those groups, but I don't
22 recall specifically, and as I indicated, it wasn't,
23 you know, given the compressed timeframe, there
24 wasn't sufficient time I think to really do that
25 kind of thorough analysis, but I'm sure if you

1 depose every member of the legislature, you
2 probably would find a couple people that actually
3 talked with them, you know, in some detail.

4 Q So you wouldn't know who that would be?

5 A No, I don't know offhand who might have actually
6 went into more detail, or what degree of detail
7 they went in.

8 Q But it's certainly possible that someone did?

9 A Well, I'm sure people have talked with them. There
10 is no doubt in my mind about that, but in what
11 detail, I don't know.

12 Q And it's possible that they could have talked with
13 them in sufficient detail to determine whether the
14 map that they created would meet the standards that
15 the courts reflect?

16 A Well, I mean, again, I would back up and say that
17 in, you know, from July 11th to July 20th, in nine
18 days, you know, it would be pretty unlikely I
19 think. I mean for something that is this complex,
20 in something for which we just had no resources, I
21 think it would be hard to really do that kind of
22 analysis, to be frank, to really look at that,
23 because, you know, obviously I think as
24 legislators, you feel some obligation to at least
25 do due diligence beyond what organization might

1 tell you.

2 Q Just so you know, Dustin probably gets this, Peter
3 gets it, I'm sure, this is an exhibit that we
4 introduced in a deposition yesterday, and I'd like
5 to keep the exhibit number the same. Mr. Barca,
6 you've been handed what's been marked as 1029. Can
7 you take a look at that, and tell me if you've seen
8 that before?

9 A No, I don't believe I've seen this.

10 Q This appears to be a memo from Joel Gratz to you
11 and other members of the Assembly Democratic
12 leadership.

13 A Um-hum.

14 Q Now the dates show January 30, 2012. That's only
15 because when we printed it out. In the deposition
16 yesterday, we were told that the actual date of
17 this memo would have been on or about January 5th,
18 2011.

19 A Um-hum.

20 Q Do you know who Joel Gratz is?

21 A Yes, I do.

22 Q Who is he?

23 A Joel Gratz is somebody that we have since hired to
24 be the director of the Assembly Democratic campaign
25 committee, but prior to that, in the previous

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1 session of the legislature, the intent that the
 2 Democrats had was that Speaker Sheridan had talked
 3 with then Minority Leader Fitzgerald about having
 4 -- what his goal was was to have equal resources
 5 given to Republicans and Democrats starting last
 6 session going into redistricting, and the intent
 7 was to use Joel Gratz as one individual to help put
 8 together, you know, start analyzing putting
 9 together maps.

10 My understanding is that Speaker Sheridan
 11 was never able to get Minority Leader Fitzgerald to
 12 agree to that, so as a consequence, nobody was ever
 13 retained, but anyway.

14 Q Do you know if this memo was created before or
 15 after the decision to not provide funding to the
 16 Democratic caucus to retain a redistricting
 17 attorney?

18 A I have no idea.

19 Q Let's look at the --

20 A This doesn't look familiar to me, as I indicated.

21 Q Let's look at the last section there. It says
 22 "funding resources." Under that it says "since
 23 state funding has been denied at this point,
 24 alternatives will need to be sought." Do you see
 25 that?

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1 A Right, so that would tell me that it must have
 2 happened after obviously because for it to have
 3 been denied, it would have to have occurred after
 4 the January 4th org meeting.

5 Q Do you know if anyone on your staff received the
 6 memo of this nature?

7 A I don't know.

8 Q Do you know if anyone on your staff spoke with Joel
 9 Gratz about the topics listed in this memo?

10 A Oh, I'm sure that at some juncture Rich Judge would
 11 have talked with Joel Gratz because Joel Gratz was
 12 looking to provide services, you know, as part of
 13 what I indicated Speaker Sheridan had put forward
 14 to the Republicans, so and then he actually had
 15 done some work of some sort, I don't know exactly
 16 what, but so he was hoping to actually get paid on
 17 something. So I know that there was some
 18 discussions, you know, about that. So, you know, I
 19 know that he had -- Joel Gratz, I believe, has
 20 worked on redistricting in past, you know, decades.

21 Q Do you know if he did, in fact, get paid for any of
 22 the work he did on the redistricting maps?

23 A I don't know for sure.

24 Q Let's look at the second heading there, "needs,"
 25 and below that it says "legal representation is

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1 needed immediately." Do you see that?

2 A Um-hum, yes, I do.

3 Q Do you know if the Senate Democrats retained
 4 counsel with respect to redistricting?

5 A It's my understanding that they did, that in the
 6 Senate it's my understanding that then Majority
 7 Leader Decker and Minority Leader Fitzgerald had
 8 agreed that both of them would be given equal
 9 funding for doing redistricting, and as a
 10 consequence I think they were -- in the Senate side
 11 were, the Senate Democrats, Senator Miller was
 12 actually stunned because I think what they did was
 13 they suspended a previous agreement where they
 14 would have legal representation, so I think whoever
 15 was representing them I think had to immediately go
 16 off, you know, being paid and they had to quit any
 17 representation that was going on. But it's my
 18 understanding that they actually had put forward
 19 some money to do some preliminary work.

20 Q Do you know if anyone either in the Senate
 21 Democratic caucus or the Assembly Democratic caucus
 22 sought any pro bono representation from
 23 organizations like Common Cause or the other good
 24 government groups that you've referred to?

25 A I don't.

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1 Q Is that something that the Assembly Democratic
 2 caucus or the Senate Democratic caucus could have
 3 done?

4 MR. JAMBOIS: Objection. Calls for a
 5 legal conclusion.

6 BY MR. KELLY:

7 Q You can answer.

8 MR. JAMBOIS: You can answer the
 9 question, but I object on the grounds that it calls
 10 for a legal conclusion as to whether it would have
 11 been lawful for you to obtain free legal services.

12 THE WITNESS: So then I don't understand.
 13 Does that mean I need to still answer?

14 MR. JAMBOIS: You still need to answer.

15 THE WITNESS: I still need to answer.
 16 You were objecting. So repeat the question again.
 17 It startled me how quickly he said his objection.

18 MR. JAMBOIS: I haven't said much.

19 THE WITNESS: It didn't really register
 20 what his question was, what is it now.

21 MR. KELLY: He's a good attorney, so he
 22 jumped in right when I got done. So if you could
 23 read the question back for me, that would be great.
 24 Thank you.

25 THE WITNESS: Something about did we try

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1 to get free services.
 2 **MR. KELLY:** I don't think that was quite
 3 what I said.
 4 (Question read.)
 5 **MR. JAMBOIS:** Could you read the first
 6 question before that?
 7 (Question read and answer read.)
 8 **THE WITNESS:** I don't know if we can, to
 9 be frank. I'm not clear if that's allowed or not
 10 under our rules. I know that there are some rules
 11 that restrict people from getting free legal
 12 representation. For instance, you know, Attorney
 13 Jambois had represented me in a case regarding the
 14 open meetings law, and during that period it's my
 15 understanding, you know, I would have to pay him
 16 similar to the fact that I believe under the ethics
 17 law Justice Gableman had to pay his attorney, but
 18 up until now the Organization Committee has not
 19 paid him, so as a consequence -- I know it's
 20 startling, isn't it, but they did say that if
 21 they're legally obligated to, they probably would.
 22 So at any rate, so it's not clear to me whether or
 23 not we even are allowed to get free legal
 24 representation. I have no idea how that works, to
 25 be frank.

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1 **BY MR. KELLY:**
 2 Q Did you seek anyone's advice on whether you could
 3 obtain pro bono representation from Common Cause or
 4 any of the other good government groups?
 5 A I didn't personally, no. My staff may have. I
 6 don't know, my Chief of Staff might have, I'm not
 7 sure. I know our primary approach, though, was to
 8 approach legislative counsel just because that's
 9 who is, you know, for most issues in the
 10 legislature, that's who the legislature retains to
 11 provide legal advice to legislators, and so we were
 12 -- you know, I was hopeful that perhaps they could
 13 advise us, and I was told there would be a very
 14 limited utility just because they did not have
 15 people on their staff that really have legal
 16 expertise in this area.
 17 Q Apparently, at least according to Mr. Gratz, as far
 18 as back as January 5th, 2011 he deemed it
 19 sufficiently important to get legal representation
 20 immediately that he put it in bold and an
 21 exclamation point after it. Do you see that?
 22 A Um-hum.
 23 Q Given -- you need a yes or no.
 24 A Oh, you mean does it say that?
 25 Q Yes, do you see where it says that?

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1 A I do see that it says that, yes, I'm sorry.
 2 Q You thought it was sufficient to rely on
 3 legislative counsel; you didn't think it was
 4 important enough to seek out other sources of
 5 representation?
 6 A Well, at what period? You mean in January,
 7 February, July, I mean --
 8 Q At any time in the redistricting process.
 9 A You know, obviously after January when we were told
 10 that we -- you know, that there would be no
 11 resources made available to the Democrats or any
 12 other party or any other citizen for that matter,
 13 you know, we, Senator Miller and I discussed how we
 14 could proceed, and our first course of action was
 15 to go to legislative counsel, which we did do, and
 16 then we also decided to -- you know, we had a
 17 number of discussions. We also thought we would
 18 sent another letter to Fitzgerald seeing if we
 19 could get -- use their attorney even. I think
 20 there was some discussion to see whether or not
 21 they'd let us use their own attorney or put money
 22 in legislative counsel. I don't remember all the
 23 details of what we looked at, but then, you know,
 24 when they startled us with dropping these maps July
 25 8th, you know, there was -- at that point there was

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1 just so little time to do anything, I mean.
 2 Q You understood that maps were going to be coming at
 3 some point, yes?
 4 A Oh, of course, but the legal practice, of course,
 5 historically is that you wait until ward maps are
 6 being drawn, so I knew that across the state,
 7 Kenosha was very contentious, even my home
 8 community and I know that in many other places that
 9 the ward maps were not done and would not be done
 10 for a period of time, so I didn't expect that they
 11 would drop a map until after the ward maps were
 12 drawn. Heck, I didn't even know you could do that.
 13 Legally, I guess you couldn't, but then they
 14 changed the law as part of this process, but I had
 15 never heard of drawing maps without ward maps. So
 16 they did catch us completely by surprise.
 17 Q Did you have any strategy meetings prior to July of
 18 2011 with respect to redistricting?
 19 A Well, I mean Senator Miller and I talked, you know,
 20 almost weekly on any range of things, so sure,
 21 we've talked a number of times about redistricting.
 22 Q How far back did you talk with Senator Miller about
 23 redistricting?
 24 A Well, obviously we talked sometime after January
 25 5th and 6th just about how surprised we were that

1 the Republicans would be so brazen as to take the
2 actions that they took on the 5th. You know, I
3 just never imagined that they would come forward
4 with a motion to say, I can remember just like my
5 jaw dropping when they said, you know, we want you
6 to give us limited funds to hire attorneys and
7 consultants and there'll be nothing available for
8 you or anybody else. I was just stunned. So we
9 talked I think that day or the next day immediately
10 just saying, oh, my God, can you believe they did
11 that.

12 Q What date was that approximately?

13 A Well, the 5th is -- wait, let me look. The 4th is
14 when Org took this action, so I'm sure we would
15 have talked that day, and then the next day, you
16 know, we put together that letter so that was the
17 first step we took.

18 Q After your remarked to each other about how stunned
19 you were about the Republicans brazenness, did you
20 do anything with respect to the redistricting at
21 that point or did you just let the process
22 continue?

23 A No, nothing directly at that point. First we sent
24 the letter and we waited some time to see whether
25 or not they would reconsider it. Then our next

1 course of action was to go to legislative counsel,
2 I don't know if that was February, March, April.
3 You know what happened, though, I would say it
4 might have been in February that we talked to leg
5 counsel. We might have talked to them immediately
6 and then maybe we talked about it again, but then
7 February 11th when the Governor announced he was
8 going to end all redistricting (sic), of course,
9 the state, you know, as you know, came to a
10 standstill, you know. We had hundreds of thousands
11 of people in the Capitol, the Senate was in
12 Illinois for a couple of weeks, so at that point
13 redistricting was not anywhere even near the top of
14 the list of items or even in the middle, for that
15 matter, and then so I would say from that period
16 through when the budget passed, you know, there was
17 -- this was not one of our key priorities. I mean
18 even though we were worried about it and we were
19 talking about it, you know, you just had no time.
20 You were so busy with other things.

21 Q Well, when the Democratic members of the Senate
22 went to Illinois, presumably you had a fair amount
23 of time to do something other than worry, yes?

24 A Well, but the issue is that when he did this thing
25 on collective bargaining, every day you had tens of

1 thousands of people in the Capitol, you could
2 hardly move in the Capitol. So while they were in
3 Illinois, we clearly weren't talking about
4 redistricting. We were talking about whether or
5 not the Governor was going to be able to end 50
6 years of our tradition of allowing collective
7 bargaining in the state. And so from that period
8 through March 8th when they finally, you know, had
9 that conference committee and moved forward with
10 their bill, I mean we certainly weren't talking
11 about redistricting. You know, and then, you know,
12 then I was in court, Judge Sumi's court with Maria
13 Lazar here, we spent a lot of time together, and
14 eventually the Supreme Court, so we were thinking
15 much more about these issues than we were about
16 redistricting.

17 And plus the other thing I guess just to
18 put some context on it, it's not as if -- I mean
19 there were just far more issues that were just of
20 critical importance. Then the budget came out, and
21 you know, education was being cut by one point six
22 billion dollars, I mean that was a huge issue. So
23 this wasn't the foremost on our mind at all. And
24 are we able in the next 10 minutes just take a
25 three minute or five-minute break for me to go to

1 the bathroom?

2 Q Sure.

3 A I don't mean right now. Just think ahead a little
4 bit to when a natural break occurs, I'm just
5 requesting it.

6 Q Sounds good. Do you know when the bill that
7 eventually became Act 43 was introduced in the
8 Senate?

9 A I believe based on the timeline I have in front of
10 me, that July 11th is when the three bills were
11 introduced, one of which became Act 43, and the
12 other one Act 44, and the other one Act 39, so
13 according to my timeline here, January 11th is the
14 date they introduced all three of them.

15 Q Would those be bills 148, 149 and 150?

16 A Correct.

17 Q So tell me everything that you did or that you know
18 that the Democratic caucus, in either the Assembly
19 or the Senate, did between January 4th, 2011 and
20 July 11, 2011 to address the topic of
21 redistricting.

22 A Repeat the question. Tell you everything we did?

23 Q Yes.

24 A Well, you mean other than what I've told you so
25 far, obviously, it's in the record that we met, we

1 went to leg counsel, we sent a letter, we you
 2 know --
 3 Q So we've got three things. You met, right?
 4 A (Witness nods head.)
 5 Q Maybe it was two, met, sent a letter to leg
 6 counsel. What was the other one?
 7 A We sent a letter to Fitzgerald and we met with leg
 8 counsel Terry Anderson and asked them about
 9 providing us with legal representation, and you
 10 know, so on and so forth.
 11 Q So we've got those three things between January 4th
 12 2011 and July 11, 2011. What else, if anything,
 13 did the Democratic caucuses do about redistricting
 14 in that time period?
 15 A Well, we provided updates, you know, to our members
 16 in terms of anything that we knew. Obviously after
 17 January 5th, we told them what -- the action that
 18 was taken, and we informed them about the letter
 19 that was sent, we informed them when we went to leg
 20 counsel, and so you know, every step of the way.
 21 Then after -- let me think timeline-wise, I would
 22 say the budget was passed June 27th, somewhere in,
 23 you know, April, May, like during that timeframe we
 24 had heard that there might be, you know, outside
 25 groups that might try to file a lawsuit if the

1 Republicans don't have a public process or if they
 2 try to do something. So we had talked about
 3 whether or not that might happen, and you know,
 4 what might occur in terms of that, so. But beyond
 5 that, I can't think of anything other than what we
 6 talked about over the course of last hour, hour and
 7 a half that was of any great significance.
 8 Q So you didn't approach outside organizations with
 9 any kind of an urgent plea for help with respect to
 10 redistricting?
 11 A I don't think we approached any groups specifically
 12 asking, you know, that they give us representation,
 13 but we heard that there may be outside groups that
 14 would be doing representation, and as I indicated
 15 to you much earlier, we did meet at some point with
 16 Brady Williamson and Rebecca Mason maybe in that
 17 timeframe that I just described to talk about, you
 18 know, the fact that they might do something in this
 19 regard.
 20 Q Did you ask them to assist you in doing anything?
 21 A No, not to assist us specifically. I don't think
 22 we could ask them to assist us.
 23 Q Was there anything legislatively that you tried to
 24 do in between January 4th, 2011 and July 11, 2011
 25 to try to influence the process or procedure by

1 which redistricting might be accomplished?
 2 A Well, I did meet and talk with Speaker Fitzgerald
 3 on a couple occasions at least, I don't remember
 4 how many, and I asked him what the process would be
 5 for redistricting, if they would have a special
 6 committee on redistricting, or if it would go
 7 through the elections committee so that I could
 8 have members, you know, look at this, and I asked
 9 when hearings might begin, when we might be
 10 involved, things of that sort. So I was trying
 11 during that period to ascertain what process they
 12 might follow, so we could determine what members
 13 might be involved in this, and I'm trying to
 14 recall. I think he said that he thought the
 15 elections committee would be the vehicle, that he
 16 didn't think he'd have a special committee per say,
 17 and so I mean I met with him on a number of
 18 occasions asking where this might be at, so that we
 19 could, you know, make sure that our elections
 20 committee would be prepared and involved, but
 21 obviously as I indicated, you know, the period from
 22 February 11th when we started down the collective
 23 bargaining path through, you know, mid March
 24 whenever it was they passed it and through the
 25 budget process, I mean this was not paramount in

1 our mind. We fully expected that they would have
 2 the ward maps first, so we thought we had plenty of
 3 time to deal with this issue. I mean typically,
 4 you know, typically for myself as a minority
 5 leader, I mean you deal with things, you try to
 6 segment when you're going to deal with things,
 7 particularly when there is so many major things
 8 going on. Wisconsin has not been -- it has just
 9 been just one major issue after another that has
 10 come forward in Wisconsin, from collective
 11 bargaining, from the budgeting issues, the issues
 12 of, you know, restructuring the way things are
 13 being done, there was huge bills on reservicing
 14 debt, so I mean we had our hands more than full.
 15 Q So have we, and we'll take a break in just a second
 16 here, so have we covered everything that you or the
 17 Assembly caucus -- the Assembly Democratic caucus
 18 or the Senate Democratic caucus attempted to do
 19 legislatively to affect the redistricting process
 20 between January 4, 2011 and July 11, 2011?
 21 A Yes, I believe we, you know, in summary, I think
 22 you know, we did. I mean I'm sure I talked with
 23 elections committee members and said, you know, you
 24 should be aware that at some point this is going to
 25 come forward, I don't know when, they haven't given

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1 **us any timeline. We've covered the major issues.**
 2 **MR. KELLY:** Let's take a break.
 3 **THE VIDEOGRAPHER:** We are off the record
 4 at 10:59 a.m.
 5 (Short break taken.)
 6 **THE VIDEOGRAPHER:** We are back on the
 7 record at 11:20 a.m.
 8 **BY MR. KELLY:**
 9 Q Mr. Barca, you've been handed what's been marked
 10 1030, and I'll represent to you that Mr. Gratz told
 11 us that this relates to a redistricting meeting
 12 with legislative leadership on or about July 12th,
 13 2010. Do you recall?
 14 A **Can I write on here or not?**
 15 Q Sure.
 16 A **Or you'd rather not. Okay. Go ahead.**
 17 Q Do you recall a legislative leadership meeting
 18 sometime around July 12th, 2010 that addressed
 19 redistricting issues?
 20 A **Yes, I do.**
 21 Q What's your recollection of what was discussed at
 22 that meeting?
 23 A **My recollection was that there was a discussion**
 24 **about the preliminary work that needs to be done,**
 25 **you know, to prepare for redistricting, and that we**

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1 **would be reaching out to the Republicans so that**
 2 **the Republicans and Democrats would have equal**
 3 **resources, and that this would enable us to begin**
 4 **talking with some attorneys and consultants that**
 5 **typically you need to consult with to understand**
 6 **the myriad of issues that need to be addressed in a**
 7 **redistricting plan, similar to what we talked about**
 8 **earlier, you know, such as, you know, minority**
 9 **representation and communities of interest and**
 10 **things of that sort. Because obviously, you know,**
 11 **there is various court suits and things of that**
 12 **sort that people need to be apprised of to put**
 13 **together a plan.**
 14 Q And in that meeting, did you all decide what you
 15 would do in preparation for redistricting?
 16 A **Can you be more precise? When you say what we**
 17 **would do, I'm not sure what you mean.**
 18 Q It was a redistricting planning meeting, so I'm
 19 just kind of curious about what it is, what
 20 decisions you came to in that planning meeting
 21 about what you would do about redistricting going
 22 forward?
 23 A **No, I mean I don't think, certainly not**
 24 **substantively what we would do. It was just more**
 25 **process oriented. There was discussion about that**

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1 **if the Republicans would go along with this, that**
 2 **we would begin to interview law firms to see which**
 3 **law firm might be the best law firm for the**
 4 **Assembly Democrats to retain to represent us going**
 5 **forward and advise us. So there was a discussion**
 6 **of I think three or four different options of law**
 7 **firms. So it seemed like that was sort of the**
 8 **central part of what we were looking at.**
 9 Q Anything else?
 10 A **You know, we learned a little bit of what kind of**
 11 **data you would need, you know, where the data comes**
 12 **from, a little bit about potentially what a**
 13 **timeline might look like, always looking at -- but**
 14 **knowing this was very preliminary. I mean it was**
 15 **expected even at that point we were looking at the**
 16 **fall for bringing up a plan of 2012. As you can**
 17 **see in this document here, it states that**
 18 **legislature gets wards to begin actual drawing**
 19 **after counties and municipalities finish that**
 20 **process. So that was sort of the basic assumption**
 21 **that we were operating on in terms of a timeline.**
 22 Q Other than the decision to interview law firms,
 23 were there any other action items that resulted
 24 from this meeting?
 25 A **Not that I recall, no.**

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1 Q Let's look at the third major bullet point on
 2 Exhibit 1030. It's captioned "what can be done
 3 this year to prepare." Do you see that?
 4 A **Yes.**
 5 Q The first item is database planning and
 6 compilation. Do you know what that means?
 7 A **Not exactly, no. I think it would mean -- I don't**
 8 **know. I think it would mean something roughly**
 9 **related to just gathering like maybe -- I don't**
 10 **know actually. I'd be speculating, no need in**
 11 **trying to speculate.**
 12 Q The next item is "election results from past
 13 elections." Do you see that?
 14 A **Yes.**
 15 Q What would have been the need for that?
 16 A **I really don't know. I mean it isn't clear to me**
 17 **exactly what this was. I don't recall like going**
 18 **through point for point in terms of this. I mean**
 19 **it probably was discussed, but this wasn't**
 20 **something that was foremost on my mind, to be**
 21 **frank.**
 22 Q Was there anyone in the meeting that was tasked
 23 with having this foremost in their mind?
 24 A **Well, I mean Speaker Sheridan would have been, you**
 25 **know, at that point, you know, he was the leader of**

1 **our -- the Democrats, so he would be the one that**
 2 **would be most focused on it, but again, this is all**
 3 **preliminary. I think it was really more of -- I**
 4 **mean my best recollection of this is, sort of a**
 5 **take away, was that, you know, we would want to see**
 6 **if the Republicans would agree to share resources**
 7 **or have equal resources, that we would interview**
 8 **law firms, and that subsequent to that they would**
 9 **begin to brief us and give us information about,**
 10 **you know, the building blocks that we would need to**
 11 **put together, you know, a plan.**
 12 Q There is a bullet point that says "consult with
 13 experts on strategy and other data needs." Do you
 14 see that?
 15 A **Yes, I do.**
 16 Q Was that discussed at that meeting?
 17 A **I mean other than like Joel Gratz himself, his name**
 18 **would have come up as being, you know, someone that**
 19 **could offer expert advice or data. So I mean it**
 20 **seemed my recollection is that we -- that it was**
 21 **sort of assuming that he would be utilized, but we**
 22 **didn't know what law firm would be utilized. So I**
 23 **guess I don't know if that meant him specifically**
 24 **or somebody else. I'm really not sure.**
 25 Q At any time after this meeting, did anyone in the

1 Assembly Democratic caucus consult with any experts
 2 on strategy and other data needs?
 3 A **I'm not certain if they did. I participated with**
 4 **Representative Staskunas and I think Speaker**
 5 **Sheridan to meet with a couple law firms, you know,**
 6 **to look at who we might potentially retain.**
 7 Q But other than that, no consultation with experts
 8 on strategy or other data needs?
 9 A **I wasn't involved in that, consulting with any**
 10 **experts.**
 11 Q Do you know if anyone in the Assembly Democratic
 12 caucus was involved with consulting with experts
 13 about strategy and other data needs?
 14 A **The only person I could think of is Joel Gratz as**
 15 **sort of our, I don't know if you'd call him our**
 16 **data person or map person, I don't even know**
 17 **exactly what his specific value item portion was,**
 18 **although I know he had worked on this in the past**
 19 **cycle, so I don't know if that -- if this is**
 20 **referring to his gathering some information for us,**
 21 **or I mean that's what I would assume would be the**
 22 **case, but I don't think any of the legislators**
 23 **themselves would have been involved at this stage**
 24 **of the process at all.**
 25 Q So to the best of your knowledge, neither you nor

1 anyone else in the Democratic Assembly caucus
 2 instructed or participated in any consultation with
 3 experts on strategy or other data needs with
 4 respect to redistricting?
 5 A **No, not to my knowledge, other than Joel Gratz who**
 6 **was in one or two meetings.**
 7 Q The next bullet point beyond that is "collect local
 8 information from legislators and others on
 9 non-numeric information about districts." Do you
 10 see that?
 11 A **Um-hum, yes, I do.**
 12 Q Do you know what that refers to?
 13 A **No. I mean I would only surmise. No, I'm not**
 14 **clear on what that means. I don't know if that**
 15 **means, refers to community of interest or what**
 16 **exactly that refers to.**
 17 Q The next bullet point is "consider public input
 18 opportunities and strategy." Do you see that?
 19 A **Yes, I do.**
 20 Q Do you know what that means?
 21 A **That I have a little more sense of. I can remember**
 22 **us talking about the idea that we would want to**
 23 **have, you know, hearings, you know, in different**
 24 **parts of the state. There was some discussion**
 25 **about that, that we should really, you know, make**

1 **this more of an inclusive process, but it's not as**
 2 **if we discussed where they would take place or**
 3 **anything of that sort, but I do recall specifically**
 4 **discussing the idea that we would want to have a**
 5 **lot of hearings.**
 6 Q Once the Democrats in the Assembly were in the
 7 minority, were they able to conduct hearings if
 8 they wished?
 9 A **Not official hearings, no, you could not. I mean**
 10 **you could have informational hearings, but only the**
 11 **committee chair people are able to conduct official**
 12 **hearings in the legislature. So I mean just to**
 13 **refer back to my previous comment, that was, you**
 14 **know, when I was saying about having many public**
 15 **hearings, during the period when this would have**
 16 **taken place, we were under the impression we would**
 17 **still be in the majority, and that as part of the**
 18 **majority, we would have our elections committee,**
 19 **you know, have hearings around the state or maybe**
 20 **have a special committee, so there was some**
 21 **discussion about that.**
 22 Q And once you found yourselves in the minority, you
 23 had to do some strategic reorienting, yes?
 24 A **Of course. You have to at least sort of rethink**
 25 **the fact that now we can't conduct hearings, so.**

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1 Q You could conduct informational meetings, as you
2 mentioned, though?

3 A **Yes, you could have conducted informational**
4 **hearings.**

5 Q Where all did the Assembly Democratic caucus
6 conduct informational meetings with respect to
7 redistricting after January 4th, 2011?

8 A **Well, typically, you know, going back to even in**
9 **this document, I mean, as you can tell here, the**
10 **idea was that this would be brought up at the**
11 **soonest in the fall of 2011, and possibly in the**
12 **spring of 2012, so I never envisioned that you**
13 **would -- you know, you would have hearings prior to**
14 **late summer because -- and then, in fact, in terms**
15 **of what happened, obviously when you got the Senate**
16 **out of the state, you've got tens of thousands of**
17 **people in the Capitol, you're not going to have a**
18 **public hearing on redistricting. I believe the**
19 **assumption, at least the assumption that I**
20 **personally held, and I would think most people**
21 **would, is that you would have all these county and**
22 **city maps, and then you'd start with that as a**
23 **building block, and you might hold hearings and**
24 **collect, you know, testimony following that, which**
25 **would have happened in late August, early**

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1 **September. So any hearings that we might have held**
2 **certainly we would never even dream of holding**
3 **these hearings prior to August. So it's not as if**
4 **we were thinking this bill would pass in July.**

5 Q So are you saying that between say January 4, 2011
6 and July 11, 2011, that the Assembly Democratic
7 caucus did not hold any informational meetings with
8 respect to redistricting?

9 A **No, if we would have been in the majority or**
10 **minority, we wouldn't have done that, neither would**
11 **the Republicans. There were too many other huge**
12 **issues. You know, many experts state that, you**
13 **know, when the budget is passed you've completed,**
14 **you know, two-thirds of the work of the legislature**
15 **during that session. So typically when you're**
16 **sworn in, when you swear in the new legislature,**
17 **typically between January and June 30th, the vast**
18 **preponderance of your attention is put on the**
19 **budget process and passing your biannual budget, so**
20 **it would be unthinkable I doubt that in the '90s or**
21 **the '80s or '70s any time there were every public**
22 **hearings by the Democrats or Republicans prior to**
23 **passing the budget, and then, as you know, a week**
24 **and a half later, they introduced the bill. So you**
25 **couldn't even have organized it quick enough to**

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1 **have hearings even if you wanted to.**

2 Q After the bill got introduced in the Senate on July
3 11th, 2011, did the Senate Democratic caucus or the
4 Assembly Democratic caucus conduct any
5 informational meetings about redistricting?

6 A **No, we didn't. It really would not have been**
7 **feasible frankly, because when you conduct a**
8 **hearing you need at least a couple weeks lead time**
9 **to have a meaningful hearing. You need to -- you**
10 **know, first of all, you need to pick a venue. So**
11 **let's say you wanted a hearing in Sheboygan, for**
12 **instance, you have to find where you're going to**
13 **hold it. See if the courthouse is available or if**
14 **a vocational college, you have to find a room.**
15 **Then you have to, you know, put together, you know,**
16 **a notice. You have to notify the public. You have**
17 **to give the public, you know, sufficient time so**
18 **that they'll actually show up and be able to offer**
19 **their testimony. So, you know, if we pass a budget**
20 **on June 30th, for instance, I think we might have**
21 **passed it a week earlier or something, even if we**
22 **had been told at that period, hey, get ready we're**
23 **going to have this up in July, you know, with the**
24 **timeline that was outlined here, you just couldn't**
25 **possibly have had hearings and collected meaningful**

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1 **input.**

2 Q Could you have had any town hall meetings?

3 A **I mean like I could have personally, let's say,**
4 **went in the Town of Somers, for instance, where I**
5 **grew up and had just my own little town hall**
6 **meeting with, you know, just personally, and**
7 **invited my own constituents to come, for instance,**
8 **but even at that, I mean typically in any**
9 **legislative office you usually need a couple weeks**
10 **lead time to do something like that. I mean it**
11 **just is completely -- it just would have been**
12 **unfeasible given the timeline that we were**
13 **presented to really be able to pull this together**
14 **that quickly.**

15 Q Couldn't have called an emergency meeting?

16 A **You could have. You could have tried to call an**
17 **emergency meeting, hey, we're going to have a**
18 **meeting in five days, come out and offer your**
19 **testimony. You could have tried to do that, but it**
20 **certainly wouldn't have been nearly as meaningful**
21 **as what you would typically do. For instance, when**
22 **the Governor announced that he was going to cut**
23 **60,000 people off of Badger Care, for instance, we**
24 **organized meetings around the state. And, you**
25 **know, you're talking about a three, four-week**

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1 process to have these meaningful hearings, and that
 2 would be typical of anything you might usually do.
 3 So I can't think of any time in my career, and I
 4 served, you know, this would be my, what, seventh
 5 term in the state legislature or in Congress, where
 6 I ever tried to pull an emergency meeting together
 7 in less than a week.
 8 Q Let me just try to do a very short summary of what
 9 I hear your concerns to be on this topic, you let
 10 me know if I've got it wrong. It seems to me that
 11 you're concerned about how quickly the bill that
 12 eventually became Acts 43 and 44 were introduced
 13 and adopted; is that right?
 14 A Yes.
 15 Q Are you aware of a lawsuit that was filed with
 16 respect to redistricting in 2011?
 17 A I'm sorry, a lawsuit in Wisconsin?
 18 Q Um-hum.
 19 A In regard to redistricting in 2011?
 20 Q Correct.
 21 A No. It doesn't come to mind. Maybe you mean for
 22 maybe a local redistricting, like city council or
 23 county board are you referring to?
 24 Q Statewide.
 25 A That a lawsuit that was filed, you mean other than

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1 the one that we're talking about?
 2 Q This one.
 3 A I'm aware that there are plaintiffs, you know,
 4 Senator Robson, I've known for many years, even
 5 though I never talked to her personally about it, I
 6 knew that she was one of the lead plaintiffs filing
 7 this lawsuit, but no, beyond that, I'm not aware of
 8 any other statewide lawsuit. In Kenosha we had a
 9 lawsuit filed between the city and county over
 10 maps.
 11 Q Do you know when this lawsuit was filed
 12 approximately?
 13 A I don't know.
 14 Q Do you know if it was filed before adoption of Act
 15 43?
 16 A I think there was -- now that you mention it, I do
 17 recall that I think there was a lawsuit filed prior
 18 to this, I think they did file in district court, I
 19 mean in federal district court prior to this, now
 20 that I think about it. I do recall that.
 21 Q Do you recall what the nature of that lawsuit was?
 22 A No, I do not. I mean other than the fact that
 23 there were concerns about just the nature of -- no,
 24 I don't know. I'm not exactly sure of it. I think
 25 it had to do with the fact that -- I don't know the

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1 details.
 2 Q Do you recall if the lawsuit expressed any concern
 3 about whether the legislature would be able to
 4 adopt a map in a timely fashion?
 5 A I think there was discussion of that, as to when a
 6 map might be drawn.
 7 Q And what was the discussion?
 8 A I don't know the details of it. I know that that
 9 was one of the issues that was brought up. I
 10 remember that.
 11 Q And one of the issues being that it might not be
 12 possible to get a map passed by the legislature in
 13 time to conduct the elections?
 14 A That sound -- that might have been one of the
 15 issues. I'm not certain of that.
 16 Q Do you think it was important that the legislature
 17 adopt a map in time to conduct elections in 2012?
 18 A I do. I do. I mean I would have expected that
 19 under any circumstances if the Democrats would have
 20 been the majority or there would have been a split
 21 majority between the houses that my expectation
 22 would have been that we would have -- there would
 23 have been a process that would have commenced
 24 shortly after all the counties and municipalities
 25 had finalized their maps and that, you know, in all

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1 likelihood probably late fall or first thing in
 2 January the map might have passed, but.
 3 Q If the legislature did not enact a legislative
 4 district map in a sufficient and timely fashion, do
 5 you know what would have happened?
 6 MR. JAMBOIS: Objection. Calls for a
 7 legal conclusion, but you can still answer the
 8 question, if you know the answer.
 9 THE WITNESS: Okay.
 10 MR. JAMBOIS: If you know the answer.
 11 THE WITNESS: I assume that if the
 12 legislature does not act, then the courts would
 13 act.
 14 BY MR. KELLY:
 15 Q So there is some need for dispatch in adopting a
 16 new legislative district map?
 17 A Yes. It would need to occur before the election.
 18 Q Are you familiar with the Wisconsin Democracy
 19 Campaign?
 20 A Only that I understand during the break my staff
 21 person reminded me that it wasn't Common Cause, it
 22 was the Democracy Campaign that put forward that
 23 map. So he clarified that for me, just to make
 24 sure that the transcripts were accurate, so.
 25 Q Very good. Does that refresh your recollection

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1 about any individuals that might have been involved
 2 in the process of Wisconsin Democracy Campaign
 3 developing a map?
 4 **A It doesn't remind me exactly who the key players**
 5 **were, no, it does not. I would assume, you know,**
 6 **like Common Cause or League of Women Voters or some**
 7 **of these other groups would be involved in that,**
 8 **but I really don't know. But I do recall hearing**
 9 **their names. Like when it was -- whenever the**
 10 **Democracy Campaign filed or put forward this map,**
 11 **at that time I remember, you know, at that point if**
 12 **you had asked me that week who were the key people,**
 13 **I would have been able to tell you. I just don't**
 14 **recall right now.**
 15 **MR. KELLY:** Why don't we go off the
 16 record.
 17 **THE VIDEOGRAPHER:** We are off the record
 18 at 11:43 a.m.
 19 (Lunch break taken.)
 20 **THE VIDEOGRAPHER:** We are back on the
 21 record at 12:37 p.m. This is the end of disk
 22 number one in the deposition of Peter Barca. We're
 23 off the record at 12:37 p.m.
 24 (Short break taken.)
 25 **THE VIDEOGRAPHER:** We are back on the

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1 record at 12:59 p.m. This is the beginning of disk
 2 number two in the deposition of Peter Barca.
 3 (Exhibit No. 1038 was marked.)
 4 **BY MR. KELLY:**
 5 **Q** Mr. Barca, you've been handed what's been marked
 6 Exhibit 1038. Can you take a look at that, and
 7 tell me if you've seen it before, please?
 8 **A No, I have not.**
 9 **Q** Do you know who Scott Adrian is?
 10 **A I do.**
 11 **Q** Who he is?
 12 **A He's a legislative aide.**
 13 **Q** For whom?
 14 **A That works for, he splits his time between two**
 15 **legislators. He's half time with Representative**
 16 **Sandy Pasch, and I forget who the other half time**
 17 **is, to be frank.**
 18 **Q** Have you ever done any work with Mr. Adrian?
 19 **A Not really intensive work. He worked for Speaker**
 20 **Sheridan last session, so in that capacity, he**
 21 **would have been in the leadership meetings that I**
 22 **was in. So certainly I know him very well, but**
 23 **it's not like we've worked on legislation together**
 24 **or anything of that sort. He never worked directly**
 25 **for me.**

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1 **Q** Again, the date field, there is a date variable in
 2 this, so it prints the date that the document was
 3 printed off, and we just printed this off today,
 4 and the hence the January 31st, 2012, but in Mr.
 5 Gratz's deposition, he indicated that this memo had
 6 been created on or around February 26, 2010.
 7 **A 2010?**
 8 **Q** Correct.
 9 **A February 26 of 2010. Okay. All right.**
 10 **Q** I'd like to know if you're aware of whether the
 11 Democratic caucus in either the Senate or the
 12 Assembly had ever discussed building state
 13 legislative district maps out of census blocks
 14 rather than wards?
 15 **A Not that I recall. This really surprises me seeing**
 16 **it, to be frank. No, I don't ever recall**
 17 **discussing that.**
 18 **Q** The second paragraph on this memo says "at the
 19 November 6, 2009 RSWG meeting, LRB 09-0193 slash P3
 20 was distributed which would modify current law to
 21 help facilitate use of census blocks rather than
 22 ward boundaries for legislative and congressional
 23 district maps." Do you see that?
 24 **A Yes, I do.**
 25 **Q** What's RSWG, do you know?

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1 **A I actually don't know. I'm sure it's not**
 2 **Republican something, but I don't know what RSWG**
 3 **stands for.**
 4 **Q** If I said it was Redistricting Study Working Group.
 5 **MS. LAZAR:** Study or staff, I'm not sure
 6 which.
 7 **BY MR. KELLY:**
 8 **Q** Redistricting Staff Working Group. Is it on there?
 9 Now, if I'd read the document, we'd know.
 10 **A There we go.**
 11 **Q** Thank you, Dustin. If we look up a little further,
 12 it says Redistricting Staff Working Group.
 13 **A Got it.**
 14 **Q** Does that term mean anything to you?
 15 **A I mean it doesn't. I mean we do have staff working**
 16 **groups on various issues in the legislature, so I**
 17 **mean it doesn't shock me that there might have been**
 18 **a group like that, but I wasn't aware of it prior**
 19 **to this meeting.**
 20 **Q** And if you were not aware of the group, certainly
 21 you weren't aware of the work it was doing?
 22 **A The only time it could have come up is, as you**
 23 **know, I indicated earlier some leadership meetings**
 24 **we were discussing hiring possible firms, it could**
 25 **have come up during meetings such as that, but I**

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1 **don't recall that ever.**
2 Q So in your previous efforts involved with
3 redistricting or in the current efforts with
4 redistricting, you don't recall ever discussing the
5 possibility of building maps out of census blocks
6 rather than ward boundaries?
7 A **No, I do not. It really surprises me. I'm not at**
8 **all aware of that having been discussed.**
9 Q If we go on in that paragraph under review of
10 possible legislation, the last sentence of that
11 paragraph says "this proposed draft is simpler
12 version of 1999 AB," is that 940?
13 A **940, yes.**
14 Q "SB 518 introduced by JCLO."
15 A **Um-hum.**
16 Q What's JCLO?
17 A **That's the Joint Committee on Legislative**
18 **Organization.**
19 Q Were you in the Assembly in 1999?
20 A **No.**
21 Q When you looked at potential participation in
22 redistricting activities in legislature for this
23 term, did you go back and look at any bills that
24 had been introduced in the past?
25 A **No, I did not.**

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1 Q To do with redistricting?
2 A **No. I'm sure staff did, though, just to be frank,**
3 **but I personally did not look at any.**
4 Q Do you know which party controlled the legislature
5 in or the Assembly in 1999?
6 A **I believe the Assembly was controlled by**
7 **Republicans. I'm quite certain of that. I don't**
8 **know about the Senate.**
9 Q Okay. I'd like to just note for the record that
10 what we've marked as Exhibit 1038 is the same
11 document as was introduced as Exhibit 1031 in Mr.
12 Gratz's deposition yet yesterday. So my apologies
13 to whoever might read this transcript that I
14 neglected to use the older exhibit number. I'll do
15 better.
16 A **You want me to write that down?**
17 Q I'll sign it if you do. All right.
18 **MR. KELLY:** This I know we didn't
19 introduce before.
20 (Exhibit No. 1039 was marked.)
21 **BY MR. KELLY:**
22 Q Mr. Barca, you've been handed what's been marked
23 Exhibit 1039. Would you take a moment to take a
24 look at that, and let me know if you've seen that
25 before?

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1 A **I'm sure I must have. My name is one of the**
2 **co-authors. It doesn't immediately ring a bell,**
3 **though, to be frank, but I'm sure I must have at**
4 **some point.**
5 Q Do you know what it is?
6 A **Well, it's a substitute amendment to Senate Bill**
7 **149. 149 I believe was the congressional**
8 **redistricting, although I'm not certain if that's**
9 **the case. I believe that's the case, because there**
10 **are three bills.**
11 Q When was that introduced, can you tell?
12 A **July 20th of 2011. It says that at the top, on**
13 **July 20th this was offered by Representative**
14 **Hulsey, so that would have been the day we took up**
15 **the bill.**
16 Q And Exhibit 1039 lists you as being the one of the
17 people who offered this Assembly Substitute
18 Amendment 1?
19 A **Yes, that is correct.**
20 Q Do you know who drafted this?
21 A **I assume Representative Hulsey, since he's listed**
22 **as the chief author.**
23 Q Did you -- but this did get introduced, correct?
24 A **I would assume so. I don't recall, though, to be**
25 **very frank.**

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1 Q Is it your practice -- well, did you review this
2 before July 20th, 2011?
3 A **Yes, although not in any detail. It's something**
4 **that probably my staff briefed me or Representative**
5 **Hulsey might have brought up, so.**
6 Q Do you know what Assembly Substitute Amendment 1 to
7 2001 Senate Bill 149 was to accomplish?
8 A **I have a vague recollection of it, and just reading**
9 **the summary real quickly here, it appears that it**
10 **would require the GAB to draw a redistricting plan**
11 **for consideration, so it would be done on an**
12 **non-partisan basis, and that would be consistent**
13 **with some of the things we talked about in caucus**
14 **to try to have a non-partisan approach. So that's**
15 **my best recollection in reading it real quickly.**
16 Q And what were the conversations you had in the
17 caucus about having a non-partisan approach to
18 redistricting?
19 A **Well, as you know, when -- as I indicated earlier,**
20 **on January 4th when we had our first day surprise**
21 **in the legislature, when the Republicans came in**
22 **and indicated that they would have unlimited**
23 **expenses for redistricting for attorneys and**
24 **consultants, and Democrats or any other parties or**
25 **citizens would have zero, it struck me at that**

<p style="text-align: right;">Page 90</p> <p>1 time, I really hadn't thought about it prior to</p> <p>2 that, you know, something -- I mean that obviously</p> <p>3 something was wrong with that, that they would</p> <p>4 approach it in that blatant of a tainted approach</p> <p>5 in my judgment, to redistricting, but I thought,</p> <p>6 you know, rather than Democrats just saying look we</p> <p>7 want our share, why don't we -- you know, because</p> <p>8 the Speaker introducing it said, you know, don't</p> <p>9 worry this is going to be like any other bill, it's</p> <p>10 going to go through the process, so it just struck</p> <p>11 me at that moment well, then I'm going to offer an</p> <p>12 amendment. If it's going to be like any bill,</p> <p>13 let's have legislative counsel do this. It will</p> <p>14 save taxpayers money. It will be more transparent</p> <p>15 for everybody, and let's make this truly something</p> <p>16 that's wholly non-partisan. So I offered that</p> <p>17 amendment. Of course, it was defeated on a party</p> <p>18 line vote.</p> <p>19 As I indicated, that's what they had done</p> <p>20 throughout the session, although it was very</p> <p>21 disappointing to me because the Governor had just</p> <p>22 the day before in his inaugural speech talked about</p> <p>23 frugality amongst taxpayers, and this was a time we</p> <p>24 needed to preserve resources, so I thought true to</p> <p>25 that practice, they might actually considering</p>	<p style="text-align: right;">Page 92</p> <p>1 "The legislative reference bureau and the</p> <p>2 government accountability board shall develop</p> <p>3 standards for legislative and congressional</p> <p>4 districts based on population."</p> <p>5 A What line are you reading off? I apologize.</p> <p>6 Q I'm sorry, starting with line two.</p> <p>7 A Okay.</p> <p>8 Q Subsection one of proposed 4.006.</p> <p>9 A Right.</p> <p>10 Q "The legislative reference bureau and the</p> <p>11 government accountability board shall develop</p> <p>12 standards for legislative and congressional</p> <p>13 districts based on population requirements under</p> <p>14 the Wisconsin Constitution and the U.S.</p> <p>15 Constitution, and requirements under section 2 of</p> <p>16 the Voting Rights Act." Do you see that?</p> <p>17 A I got it.</p> <p>18 Q And then skipping down to subsection two, "not</p> <p>19 later than January 1 of the 2nd year following the</p> <p>20 decennial federal census, the legislative reference</p> <p>21 bureau and the government accountability board</p> <p>22 shall jointly deliver to the majority leader of the</p> <p>23 Senate and Speaker of the Assembly identical bills</p> <p>24 creating plans of legislative and congressional</p> <p>25 redistricting." Do you see that?</p>
<p style="text-align: right;">Page 91</p> <p>1 accepting something that would clearly save the</p> <p>2 taxpayers hundreds of thousands of dollars and</p> <p>3 would be a much more fair, transparent process, and</p> <p>4 I thought we were going to start the session off</p> <p>5 new. I had met with the Governor the day before</p> <p>6 and we talked about trying to work together, and so</p> <p>7 I was hopeful that we might actually try something</p> <p>8 a little bit different. But they did reject it on</p> <p>9 a party line vote, so it seemed to me following</p> <p>10 that period and some of the discussions I had with</p> <p>11 the caucus members who had an interest in this</p> <p>12 issue, Representative Hulsey was one of them, that</p> <p>13 we should really try to push for a process that's</p> <p>14 completely transparent and non-partisan. So I</p> <p>15 assumed that, you know, probably it was along those</p> <p>16 lines that Representative Hulsey had this drafted.</p> <p>17 Q Let's take a look at its provisions. If you turn</p> <p>18 with me to page three of Exhibit 1039, and do you</p> <p>19 see where this -- you're on page three?</p> <p>20 A Um-hum.</p> <p>21 Q Do you see where this appears to be the text of the</p> <p>22 Assembly Substitute Amendment 1 to 2011 Senate Bill</p> <p>23 149?</p> <p>24 A I do.</p> <p>25 Q Let's look at subsection one of proposed 4.006.</p>	<p style="text-align: right;">Page 93</p> <p>1 A Yes, I do.</p> <p>2 Q So is it your understanding that the one of the</p> <p>3 purposes of this Assembly Substitute Amendment is</p> <p>4 that the responsibility for drawing new state and</p> <p>5 congressional legislative district maps would be</p> <p>6 with the LRB and the GAB?</p> <p>7 A Yes.</p> <p>8 Q Who comprises the LRB?</p> <p>9 A The LRB is a service bureau of the legislature who</p> <p>10 we commonly refer to it as the drafting bureau.</p> <p>11 They're the group that drafts legislation for</p> <p>12 consideration by the legislature.</p> <p>13 Q Is anyone in the LRB elected to their position?</p> <p>14 A No, they are not.</p> <p>15 Q Who comprises the GAB?</p> <p>16 A The GAB is a group of citizens that are I believe</p> <p>17 they now are former judges.</p> <p>18 Q And that would be the board of the GAB?</p> <p>19 A Right, that would be the board of the GAB.</p> <p>20 Q Are any of them elected to be on the Government</p> <p>21 Accountability Board?</p> <p>22 A No, they are not.</p> <p>23 Q So is the effect of this amendment that you offered</p> <p>24 to put the redistricting responsibilities in the</p> <p>25 hands of unelected people?</p>

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1 **MR. JAMBOIS:** Objection. Calls for a
2 legal conclusion. Furthermore, the documents peaks
3 for itself.
4 **THE WITNESS:** Can you repeat the
5 question?
6 **BY MR. KELLY:**
7 Q So one of the effects of the amendment that you
8 offered was to take the responsibility for drawing
9 the new district maps and putting it in the hands
10 of unelected people?
11 **MR. JAMBOIS:** Again, I object to the
12 question. That's a different question, but I
13 object to that question as calling for a legal
14 conclusion.
15 **THE WITNESS:** Well, I mean all I would
16 say is that if the GAB and the LRB drafted a map,
17 that would be a starting point not an ending point.
18 Then the way the legislative process works is then
19 you would have hearings, and you would collect
20 input from the public, and you would take that
21 input into effect, and obviously even though they
22 can produce a map, they can't pass a map. It would
23 only be elected officials that can pass the map.
24 **BY MR. KELLY:**
25 Q Let's take a look at that aspect of the amendment

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1 that you offered.
2 A **Not an amendment. Oh, the substitute?**
3 Q Yes.
4 A **Oh, the substitute was offered by Representative**
5 **Hulsey and others.**
6 Q Including you?
7 A **Including me, yep.**
8 Q So let's pick up where we left off. So we're in
9 subsection two proposed 4.006, and we've gone
10 through the part where the GAB would submit maps,
11 and then it says picking up with "either the
12 Assembly or the Senate." Do you see that?
13 A **Yes.**
14 Q "Either the Assembly or the Senate shall
15 expeditiously introduce and bring a bill to a vote
16 not less than seven days after the date of
17 introduction. The vote shall be under a procedure
18 or rule permitting no amendments except those of a
19 purely corrective nature." Do you see that?
20 A **Um-hum, yes.**
21 Q What kind of public input would be available within
22 those seven days?
23 A **Well, in that case, it would be very difficult to**
24 **have any public input. So I mean if this had**
25 **actually -- like let's say if we were going to**

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1 seriously consider this document, when I read this,
2 personally I would try to amend this to modify it,
3 I wouldn't actually agree with that exactly as it's
4 written.
5 Q Well, your name is on it.
6 A **Right. That means I agree with the concept of**
7 **starting with the document that is drawn in a**
8 **non-partisan fashion, but had this come for a**
9 **votes, as oftentimes the case, you agree in concept**
10 **with moving forward with an idea, but that doesn't**
11 **mean that you necessarily wouldn't amend it. I**
12 **would definitely have offered an amendment had this**
13 **come up and been considered by the legislature. I**
14 **would definitely want to allow time for public**
15 **input for the amendment process.**
16 Q It says "the vote shall be under a procedure or
17 rule permitting no amendments except those of a
18 purely corrective nature." Would you agree with
19 that part?
20 A **No.**
21 Q If this had been adopted, this amendment that you
22 offered, and if that controlled the process rather
23 than the process that eventually enacted Act 43,
24 there wouldn't have been an opportunity for any
25 legislator at all to introduce a substantive

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1 amendment, right?
2 A **Well, I mean if this were adopted, technically you**
3 **would be correct. If this were brought up and**
4 **let's say the legislature said yes to this, without**
5 **any amendments, so that would be the case. But, of**
6 **course, as I indicated, I personally would have**
7 **offered an amendment, as I'm sure others would have**
8 **as well, and I think this could have been modified**
9 **to be something workable. As it stands, I wouldn't**
10 **support it word for word as it's been offered**
11 **because I do believe in public input into this**
12 **process.**
13 Q So this amendment accomplishes three things; it
14 takes the redistricting process and puts it in the
15 hands of unelected people?
16 A **Um-hum.**
17 Q It provides that the proposed map be voted on
18 within seven days of introduction, and it prohibits
19 any substantive amendments. So which of those
20 three parts of the amendment that you offered do
21 you actually agree with?
22 A **I would agree with the part, the first part that**
23 **you would have -- you would start off with a map as**
24 **a base for consideration that was put together by**
25 **non-partisan people. I would not agree with the**

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1 **idea of voting seven days, and I wouldn't agree**
 2 **with the idea that you would not be able to offer**
 3 **some sort of amendment. So the first part of the**
 4 **idea of trying to get to a non-partisan approach I**
 5 **think that makes some sense, that you start with**
 6 **that kind of approach.**
 7 Q Let's take a look at the first page here again, and
 8 we'll go through the list of people who are listed
 9 as offering this amendment. There is
 10 Representative Hulsey, Pocan, you, Berceau,
 11 Bernard, Schaber, Bewley, Clark, Coggs, Cullen,
 12 Danou, Doyle, Fields, Grigsby, Hebl, Hintz,
 13 Jorgensen, Mason, Milroy, Molepske Junior, Pasch,
 14 Pope-Roberts, Radcliffe, Richards, Ringhand, Roys,
 15 Seidel, Shilling, Sinicki, Staskunas, Steinbrink,
 16 Toles, Turner, Vruwink, Young, Zamarripa, and
 17 Zepnick. Do you see that?
 18 A **Um-hum, yes.**
 19 Q Do you know if any of them agreed with what they
 20 were offering?
 21 **MR. JAMBOIS:** Objection. No foundation
 22 for this witness to determine what others were
 23 thinking.
 24 **BY MR. KELLY:**
 25 Q That's why I asked if he knew.

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1 A **I don't know what others would think about that,**
 2 **but I would speculate that generally the**
 3 **legislative process many times people agree with**
 4 **something as a starting point, but also reserve the**
 5 **right to amend as it goes forward.**
 6 Q The people's names I just read there, are those
 7 Democrats or Republicans?
 8 A **Democrats.**
 9 Q All of them?
 10 A **Every one of them, yep.**
 11 Q Did you have a conversation about this concept of
 12 putting the responsibility for redistricting in
 13 people's hands who had not been elected with any of
 14 those people?
 15 A **Not individually, but there have been a lot of**
 16 **discussion over time about various approaches that**
 17 **might be taken that would tend to be more of a**
 18 **non-partisan approach to things. I know our**
 19 **neighbors in Iowa have adopted some sort of a**
 20 **non-partisan approach to things. I understand**
 21 **California has, and everybody, every state has a**
 22 **little different variation on a theme. And I know**
 23 **the end of last session there were a couple bills**
 24 **that were, you know, being contemplated that would**
 25 **have that sort of a starting point, but I think as**

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1 **many people as there are legislators there are**
 2 **different ideas about something like redistricting.**
 3 Q Had you drafted any potential amendments to this
 4 Assembly Substitute Amendment 1?
 5 A **No, I don't even recall -- I mean I assume that it**
 6 **was offered. I don't recall exactly what happened**
 7 **during the process, but I do know that I would have**
 8 **been 99 point 999 percent certain the Republicans**
 9 **would never actually allow it to be considered,**
 10 **that they would table it just because that's**
 11 **exactly the approach they followed 99 percent of**
 12 **the time prior to July.**
 13 Q You voted for it, though, yes?
 14 A **I don't recall if there was a vote taken or not,**
 15 **but if there was a vote taken, it would have been a**
 16 **procedural motion of whether to table it or to**
 17 **consider it. So if there had been a vote, I would**
 18 **have voted to consider it, but vote on final**
 19 **passage is very different than considering it.**
 20 Q When you offer legislative material, a clear
 21 original bill or an amendment, do you develop any
 22 kind of a strategy for how to have it managed on
 23 the floor?
 24 A **Yes, of course.**
 25 Q Did you develop any kind of a strategy for how to

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1 handle or how to manage Assembly Substitute
 2 Amendment 1 to 2011 Senate Bill 149?
 3 A **No, because as I indicated prior to that, we knew**
 4 **that there was virtually the most remote chance**
 5 **possible that it would ever actually be considered.**
 6 **When you're in the majority, perhaps I can give you**
 7 **an example, in the majority when you're offering a**
 8 **bill, and you know it's going to come up for a**
 9 **vote, you give due consideration to what amendments**
 10 **might come forward, how you might treat those**
 11 **amendments, things of that nature. For instance,**
 12 **last session I passed a bill on banning text**
 13 **messaging while driving. During that period I knew**
 14 **there could be various amendments, and I thought**
 15 **through which ones might potentially make sense to**
 16 **accept, which ones I wouldn't, but oftentimes you**
 17 **don't know. I mean I can remember Representative**
 18 **Hipshaw offered a couple of amendments I was not**
 19 **aware of prior to that. After rejecting one, I**
 20 **decided to accept the other one because it made**
 21 **sense to accept it.**
 22 **But this session after about, you know,**
 23 **March or April when it became clear that their**
 24 **pattern would be that they would continue not to**
 25 **allow even substantive consideration of amendments,**

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1 that they would just table each and every one of
 2 them, then your approach legislatively changes, and
 3 you just offer things as a starting point to
 4 discuss, but knowing that they in all likelihood
 5 would not actually accept it.

6 Q In the conversations that you had historically on
 7 the topic of removing the responsibility for
 8 developing a new legislative district map and
 9 putting it into the hands of unelected people, have
 10 you ever talked about the amount of time that that
 11 bill should be on the floor before it gets a vote
 12 and what kind of rule it should be subjected to
 13 with respect to available amendments?

14 A Not in too much detail, because obviously prior to
 15 this session, even though there was some bills, but
 16 because there was such a division in terms of what
 17 direction we might pursue, you know, even amongst
 18 Democrats. Some Democrats thought there should be
 19 a Constitutional amendment dealing with
 20 redistricting, emblazoned in the Constitution what
 21 the procedure should be. Others thought it should
 22 be a legislative bill, and some thought it should
 23 deal with competitiveness of elections. Others
 24 thought that competitiveness shouldn't be one of
 25 the key factors. So, you know, there were

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1 discussions, but, you know, never anything too
 2 intense just because prior to July, you know, there
 3 were no bills that were being advanced that we knew
 4 of or expected to be advanced, so we didn't really
 5 go into that level of detail. But I do appreciate
 6 the question, because I think that it helps to be
 7 able to clarify, you know, for the record that
 8 depending on whether or not, you know, you expect
 9 something to be considered is the amount of time
 10 and energy put into thinking through any floor
 11 strategy or drafting extra amendments or things of
 12 that sort.

13 Q You mentioned that Representative Hulsey authored
 14 Assembly Substitute Amendment 1 to 2011 Senate Bill
 15 149, yes?

16 A Yes.

17 Q Would it be reasonable for us to conclude that he
 18 agreed with the amendment provisions for a vote
 19 within seven days of introduction of the proposed
 20 GAB redistricting plan, and that it would come to
 21 the floor with no ability to amend the map other
 22 than corrective motions?

23 A I would think that this would be closer to his
 24 approach, his belief about the best approach to
 25 follow than it would be for other co-sponsors of

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1 the amendment. Now whether he would be open to
 2 amendment, that I don't know. You know, more than
 3 likely he would have been, though.

4 Q But because he put that in the amendment that he
 5 authored, we can legitimately surmise from that
 6 that he agreed with those provisions?

7 A Basically I would say he agreed, that this is more
 8 closely reflecting what he believes a direction we
 9 should go in, knowing that when you put forward
 10 anything, that you need at least 50 members to
 11 agree with you, so.

12 Q Did you survey any of the other representatives
 13 listed as offering this amendment to see what their
 14 views were with respect to the time within which a
 15 vote would have to be taken on the amendment or the
 16 rule under which the amendment would come to the
 17 floor?

18 A No, to the best of recollection, we didn't go into
 19 that level of detail at all. To be frank, when I
 20 read this now, I wouldn't even have -- I mean I
 21 might have noted that, but I think that I wouldn't
 22 have gotten into that level of detail, only because
 23 as I indicated earlier, I was, you know, about as
 24 certain as you could be of anything that
 25 Republicans would not actually allow a real

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1 discussion or a vote on this amendment, that they
 2 would just table it.

3 Q As far as you know, all of the others listed as
 4 offering this amendment could have favored the
 5 requirement that a vote be taken in seven days of
 6 the introduction of the GAB proposed map?

7 A I don't know what each member would think. I'm
 8 sure some perhaps would. I'm sure there are many
 9 that would not.

10 Q How are you sure that there are many that would
 11 not?

12 A Because I think that most -- I would say that a
 13 large share of legislators do believe that you
 14 should have hearings and collect public input and
 15 to take that input -- reflect that input into a
 16 final packet, package, so that's what I would
 17 surmise, but again I can't go into the thinking of
 18 that. As I indicated, because this whole bill came
 19 up rather suddenly because we didn't have the time
 20 to really think through every amendment we might
 21 offer as much as you'd like to, and more
 22 importantly because we knew that an amendment of
 23 this sort would just be a starting point that would
 24 never actually come to a vote, I think the amount
 25 of due diligence that would go into this is

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1 substantially less.

2 Q So as you sit here today, you don't know whether

3 all of the other members listed on Exhibit 1039

4 would or would not have favored the requirement

5 that the vote come within seven days of

6 introduction?

7 A I do not know for certain, although I doubt it.

8 Q And as you sit here today, do you know whether all

9 of the members listed on Exhibit 1039 would or

10 would not favor a restriction on the kind of

11 amendments that would be available to offer on the

12 GAB redistricting plan?

13 A Again, I don't know that level of detail because we

14 didn't go into that level of detail.

15 Q Representative Hulsey is a Democrat, yes?

16 A Yes, he is.

17 Q Do you know what the amendment provides if the map

18 proposed by the GAB does not pass?

19 A No, I don't know offhand. I'd have to read through

20 this. It appears to me, in just quickly reading

21 this, that a second bill would be prepared by the

22 same -- through the same process.

23 Q And what if that one didn't pass?

24 A Then under paren four, a third plan would be

25 brought up for consideration.

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1 Q And that would be still the GAB presenting that

2 plan?

3 A That's correct. But it appears that if it didn't

4 pass, there doesn't appear that there is any remedy

5 beyond that. But, of course, you know, if that

6 were to be the case, if we're reading this

7 correctly, and let's say a third plan was rejected,

8 then apparently we go back to any other bill being

9 offered by any other set of legislators.

10 Q You mentioned earlier when you were talking about

11 public hearings, that the value of the public

12 hearing is not simply that people have an

13 opportunity to speak their mind, but that the

14 legislature would incorporate what they said; do

15 you recall that?

16 A Yes. What I said, if I remember exactly, would be

17 that especially if you have similar viewpoints

18 expressed by a large number of people, that the

19 legislature would attempt to incorporate those

20 items in the bill.

21 Q If the GAB is responsible for drafting a

22 legislative plan, how are the members of the public

23 supposed to influence what they do?

24 A Well, as I indicated, at least in my own view

25 point, if the GAB started as a point of bringing

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1 forward a bill that they thought met the

2 constitutional requirements required that then you

3 would hold hearings, and under an amendment I would

4 have offered, you would then be able to have

5 hearings around the state, not in seven days, in a

6 longer timeframe, and that the bill would be

7 amendable. So that, for instance in Kenosha and

8 Racine, the area I know best, if there were strong

9 sentiments that they were not getting, you know,

10 the kind of community of interest protected, that

11 you would be able to make an adaptation to that map

12 so you could do that.

13 Q So under your, what you would have liked to have

14 seen, is adoption of the substitute amendment and

15 then some of your amendments of your own?

16 A Um-hum.

17 Q That would then allow legislative amendments to

18 whatever the GAB introduced?

19 A Um-hum.

20 Q But that's not what it provides for in Substitute

21 Amendment 1?

22 A That's correct. This is just a starting point.

23 Q Did you express any misgivings about the

24 accelerated time for vote and the lack of the

25 ability to amend the GAB's plan to Representative

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1 Hulsey or any of the others listed on that

2 amendment?

3 A As I indicated, I don't recall there really even

4 being a prolonged discussion of this. So, no, I

5 don't believe that anybody who even put their name

6 on there expected that this bill, this substitute

7 would be actually considered by the legislature

8 when we reached a point where it would be

9 amendable. When it's tabled, you can't amend it.

10 Q Why did you offer it?

11 A It was offered I believe by Representative Hulsey

12 as a means of being able to say, why don't we look

13 at some sort of a non-partisan approach to this,

14 and this was his idea of a starting point.

15 Q Do you think he expected the legislature to adopt

16 this amendment?

17 MR. JAMBOIS: Objection. Calls for

18 speculation on the part of the witness as to what

19 Mr. Hulsey expected. You can still answer the

20 question, if you can answer it.

21 THE WITNESS: I think he's an intelligent

22 individual. He's served in the legislature since

23 January, so I'm quite certain that, just as I

24 described the pattern, he knew this would be

25 tabled.

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1 **BY MR. KELLY:**
2 Q So is there a reason for offering an amendment that
3 he knew was going to be tabled as opposed to simply
4 going to Speaker Fitzgerald and saying, hey, you
5 know, why don't we talk about doing this in a
6 non-partisan way?
7 A **As I indicated two or three hours ago, we did try**
8 **that. We did talk to Speaker Fitzgerald on a**
9 **couple different instances about trying a different**
10 **approach, and he was unwilling to consider that.**
11 **So I think at this point in the process on July**
12 **20th, when this was offered, I think that everybody**
13 **knew that Speaker Fitzgerald would not even**
14 **consider that. There is a reason why the**
15 **legislature decided to ram this through the**
16 **legislature in a matter of 12 days or whatever it**
17 **is from the time that it was first made available**
18 **until it was passed, and that was because recall**
19 **elections were around the corner, and I believe I**
20 **think most people would say that they were**
21 **terrified that they would lose the majority and**
22 **lose their ability to pass such a partisan plan**
23 **that would actually look out for the interest of**
24 **the Republicans.**
25 Q If bringing a bill to vote within 12 days is

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1 ramming it through, how would you characterize
2 Representative Hulsey's proposal to get it done in
3 seven?
4 A **Well, I would -- one differentiation I would make**
5 **is that I think there is a difference that you're**
6 **bringing forward a non-partisan bill that isn't**
7 **trying to just strictly protect the interests of**
8 **one party versus the public interest, but secondly,**
9 **as I've indicated, I would not agree with the**
10 **seven-day period.**
11 Q Right, but I'm just curious. I mean you
12 characterized the Republicans approach as ramming
13 it through.
14 A **Um-hum.**
15 Q When they allowed 12 days.
16 A **Um-hum.**
17 Q Assemblyman Hulsey proposed seven days. So how
18 would you characterize seven days for a bill to be
19 considered and voted on; is that ramming it
20 through, too?
21 A **I think I answered the question already. I**
22 **wouldn't change my answer from what I just gave.**
23 Q Well, I'm just curious, does that constitute
24 ramming it through?
25 **MR. JAMBOIS:** Objection. The question is

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1 argumentative and it has been asked and answered.
2 **THE WITNESS:** I believe I answered it. I
3 would repeat the same thing, but I don't see there
4 would be any point in that.
5 **BY MR. KELLY:**
6 Q Mr. Barca, is there anything that the Senate
7 Democrats or the Assembly Democrats could have done
8 to slow down the process of considering and
9 adopting Senate Bills 148, 149 and 150?
10 A **Not appreciably. We could have attempted to offer**
11 **additional amendments, and perhaps delayed the**
12 **process by, you know, several hours through having**
13 **a more prolonged debate. The same outcome would**
14 **have occurred, so really there is nothing that**
15 **would appreciably have changed the process. The**
16 **Republicans had determined that they were going to**
17 **pass it within that timeframe and as a majority**
18 **party, you're generally able to have your way.**
19 Q I understand there are some rule differences
20 between the Assembly and the Senate; is that true?
21 A **Yes, that is true.**
22 Q Are you familiar with the Senate rules?
23 A **To some degree, not thoroughly, though.**
24 Q Let's try this. When someone introduces a bill or
25 an amendment, there is an opportunity for debate;

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1 is that right?
2 A **Correct.**
3 Q And who --
4 A **Generally. Generally, that is true.**
5 Q Was there an opportunity to debate on Senate Bill
6 148?
7 A **Yes, there was.**
8 Q And on the Senate side, how long may any given
9 Senator speak with respect to a proposed bill?
10 A **I don't know if there is any timelines. I'm not**
11 **aware of any.**
12 Q In the Senate, is there a limit on the number of
13 amendments that may be offered?
14 A **Not that I'm aware of, but I'm not completely**
15 **familiar with the Senate process.**
16 Q Do you know how many amendments the Senate
17 Democrats offered to, let's say, Senate Bill 148?
18 A **Not offhand, no.**
19 Q Do you know how many they offered with respect to
20 Senate Bill 149?
21 A **Not offhand, no.**
22 Q How about 150?
23 A **Not offhand, no, I don't know. But I would imagine**
24 **that in my many conversations with Senator Miller,**
25 **the process and the outcome in the Senate has been**

1 virtually the same as the Assembly, where the
 2 Republicans table every amendment and there is
 3 really no consideration given to any ideas brought
 4 forward. So I'm not sure, obviously I don't sit in
 5 their caucus, I don't know what their strategy is,
 6 I do know that similarly in the Assembly, you know,
 7 you can offer as many amendments as you want, but
 8 you know the outcome, they'll table them on a party
 9 line vote.

10 Q Do you know if the Senate Democrats shared your
 11 concern about the amount of time that passed
 12 between the introduction and passing these bills?

13 A **I'm quite confident they did.**

14 Q Do you know if they worked on any strategy to slow
 15 down the process?

16 A **I don't know offhand. I don't know that we got
 17 into that level of detail.**

18 Q If they could figure out a process by which they
 19 could slow it down, consideration and adoption of
 20 the Senate bill, do you think they would be willing
 21 to engage in that process?

22 A **I don't know. I don't know. I'm not privy to
 23 their strategy that they follow, but, you know,
 24 unlike when the collective bargaining changes were
 25 offered as part of a wonderful budget repair,**

1 because there was an appropriation that required a
 2 three-fifths vote, which is what enabled them to
 3 leave the state and then deny a quorum. In this
 4 case, I believe there was no appropriation, if
 5 that's what you're getting at. I don't think that
 6 they could employ that kind of a tactic. So I
 7 can't think of any strategy that would allow them
 8 to delay this by any appreciable amount of time.

9 Q Yeah, originally I'm just interested in whether you
 10 believed that they'd be willing to engage in a
 11 tactic that would have the effect of slowing down
 12 the process?

13 A **You know, I don't want to speak for them. I can
 14 speak for the Assembly.**

15 Q When Act 10 was being considered, and the Senate
 16 Democrats left the state, would it be fair to
 17 characterize that as an attempt to slow down the
 18 process?

19 A **Completely.**

20 Q Are you familiar with the concept of the
 21 filibuster?

22 A **Yes, I am.**

23 Q Is there the ability in the Senate to do something
 24 that would be equivalent to a filibuster?

25 A **I believe there is to a degree. Typically prior to**

1 this session by sort of the customs and practices
 2 of both houses, it generally fell within the
 3 parameters of following a certain tradition of
 4 delaying things to a certain degree of time. The
 5 Senate typically does not debate things nearly as
 6 long as the Assembly, of course they have less
 7 members, but in the Assembly -- so in terms of a
 8 filibuster, you know, there have been filibusters.

9 Q And that's a tactic the Senate Democrats could have
 10 employed?

11 A **They could have.**

12 Q Did they?

13 A **Not to my recollection, that they employed to any
 14 great degree, but.**

15 Q Is there any opportunity in the Assembly to do
 16 something that would be equivalent to a filibuster?

17 A **There is. The longest filibuster in history is
 18 what we did on Act 10 on collective bargaining. We
 19 debated the bill for I believe 61 hours, that's the
 20 longest filibuster in the history of the state, so.**

21 Q What determines how long a filibuster can go?

22 A **Well, typically under the rules in the Assembly, if
 23 they're followed, which up until this session
 24 they've always been followed, the only way to end
 25 debate, it's 15 members have to -- somebody has to**

1 make a motion to end debate, 15 members have to
 2 stand up to second that motion, and then that's
 3 undebatable, and there is a vote as to whether to
 4 end debate. This session, though, the Speaker Pro
 5 Tem called for an end of debate and called for the
 6 vote immediately in violation of the rules, but
 7 prior to this particular session, to the best of
 8 anybody's recollection, including the research done
 9 by the reference bureau, only once before in the
 10 history of the state has there even been an attempt
 11 to end a filibuster, and then when then Speaker
 12 Prosser made a motion to end debate, and 15 people
 13 did second it, but out of respect for the
 14 institution, he withdrew it, but it's probably more
 15 detail than you wanted. But again, by tradition,
 16 or by -- there has never been more than 61 hours of
 17 debate before. That was longest ever this time.
 18 So we could have tried to do something similar, but
 19 three days later it still would have passed.

20 Q Unless the Senate engaged in a filibuster?

21 A **I don't know what their record is, but I'm sure
 22 it's nowhere near what ours was, so they might have
 23 been able to delay it by a day.**

24 Q Is there a reason that they would only be able to
 25 delay it by a day, in your estimation?

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1 **A Just the number of members that can speak, and, you**
2 **know, the exhaustion level that people are willing**
3 **to stay up, unlike in the Congress, in the state**
4 **legislature, the tradition is that people are**
5 **generally in those seats for debates. It's not**
6 **quite the same as in Congress where people aren't**
7 **necessarily even there, where someone can talk for**
8 **four days, and you know, only the Speaker Pro Tem,**
9 **and the, you know, members actually or the Senator**
10 **would be inside the chambers, so it's a whole**
11 **different procedure in the state legislature. So**
12 **that's why 61 hours was the longest ever, because**
13 **generally people literally start collapsing by**
14 **exhaustion.**
15 **Q Mr. Barca, you recall that there was a public**
16 **hearing on Senate Bill 148?**
17 **A Yes.**
18 **Q Were there members of the Assembly who testified in**
19 **that hearing?**
20 **A In the Senate hearing or the Assembly hearing?**
21 **Q In the Assembly hearing. I'm sorry, in the Senate**
22 **hearing.**
23 **A Well, according to the record I have in front me,**
24 **Senator Risser and Senator Erpenbach testified --**
25 **no, that's actually the vote. I don't recall in**

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1 **terms of the Senate hearing who actually testified.**
2 **Q Were there any members of the Hispanic community**
3 **that testified in favor of Senate Bill 148?**
4 **A I don't recall. I know there were many that**
5 **testified against it, but I don't recall if there**
6 **were any that testified in favor of it.**
7 **Q Do you know who Manny Perez is?**
8 **A Is he the former secretary of DWD? I believe.**
9 **Q Just I want to know your knowledge.**
10 **A It seems to me my recollection would be that he was**
11 **appointed by Governor Walker to be the Secretary of**
12 **the Department of Workforce Development.**
13 **Q Do you know if he testified in favor of Senate Bill**
14 **148?**
15 **A I don't recall.**
16 **Q Do you know if Manny Perez is Spanish?**
17 **A I would surmise by the surname that he is. In**
18 **fact, if that's who I said that he was, I know for**
19 **a fact that he is, if I've got it right that he is**
20 **the former Walker appointed secretary of DWD.**
21 **Q Do you know if he could be considered a member of**
22 **the Hispanic or Latino community?**
23 **A Can you be more specific ?**
24 **Q Well --**
25 **A He's Hispanic, so obviously by definition he'd be a**

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1 **member of the Hispanic community.**
2 **Q Fair enough. Does he have standing to speak his**
3 **mind on matters that affect the Hispanic community?**
4 **MR. JAMBOIS: Objection. No foundation**
5 **for this witness to testify as to what standing Mr.**
6 **Perez may or may not have.**
7 **THE WITNESS: I'm not even sure what you**
8 **mean by standing.**
9 **BY MR. KELLY:**
10 **Q Would he be able to stand up in front of the**
11 **legislature and say "I've talked with members of**
12 **the Hispanic community, and here is what they're**
13 **telling me," and then go on to explain what members**
14 **of the Hispanic community are telling him?**
15 **MR. JAMBOIS: Objection. It's an**
16 **irrelevant hypothetical as to whether he did that**
17 **and whether -- I don't see how it's relevant what**
18 **this witness's opinion on that is.**
19 **THE WITNESS: I mean anybody could -- I**
20 **mean technically anybody could stand up and say**
21 **whatever they want to say. I mean there is no lie**
22 **detector there, so you know, anybody could say**
23 **anything.**
24 **BY MR. KELLY:**
25 **Q Do you know --**

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1 **A In a public hearing.**
2 **Q Do you know who Susa Rodriguez is?**
3 **A No, I have no idea.**
4 **Q So you wouldn't know if he testified in favor of**
5 **Senate Bill 148?**
6 **A No, I would not. I never heard -- I don't recall**
7 **ever hearing the name of Susa Rodriguez.**
8 **Q Would it make any difference if I referred to him**
9 **as Jesus Rodriguez?**
10 **A I mean I don't recall specifically that person. I**
11 **mean but I didn't -- you know, as I indicated, I**
12 **listened to part of the testimony. I didn't listen**
13 **to the entire testimony, so I don't know every**
14 **single person that testified either for or against**
15 **the bill. His name doesn't ring a bell, like I**
16 **don't hear his name and associate him with any**
17 **particular association.**
18 **MR. KELLY: Very fair. Let's pause for a**
19 **moment.**
20 **THE VIDEOGRAPHER: We're are off the**
21 **record at 1:51 p.m.**
22 **(Short break taken.)**
23 **(Exhibit Nos. 1040 through 1046 were**
24 **marked.)**
25 **THE VIDEOGRAPHER: We are back on the**

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1 record at 1:58 p.m.
2 **BY MR. KELLY:**
3 Q Mr. Barca, in front of you is a map labeled as
4 Exhibit 1040. Can you take a look at that, and
5 tell me if you've ever seen that before?
6 A It says Wisconsin Democracy Campaign alternative
7 Wisconsin Senate redistricting map. I think I
8 looked at it rather quickly when it first came out.
9 I believe this is an alternative map that the --
10 this good government, as we've described them,
11 Democracy Campaign group would have put together,
12 but I haven't looked at it in any great detail.
13 Q And this would have come out approximately when?
14 A I actually don't recall when it came out, to be
15 frank.
16 Q But it came out before adoption of Act 43?
17 A I believe so.
18 Q Did you ask anyone to study this map on your
19 behalf?
20 A No. Not -- no, I didn't ask anybody to study it.
21 Our staff looked at it. Just naturally we kind of
22 look at these things just to get some idea of
23 what's being proposed, but not in any great detail.
24 We didn't really have any great resource by which
25 to study it in any great detail.

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1 Q And you didn't ask Wisconsin Democracy Campaign to
2 give you a briefing on this map?
3 A I didn't personally. I don't recall ever getting a
4 briefing on this. I don't believe we did. I mean,
5 you know, I guess the other -- just to put it in
6 some context, it seemed exceedingly unlikely that
7 the Republicans would accept anything other than
8 what they put together, because the whole intent of
9 their trying to push this thing through so quickly
10 before the recall was so they could have a map that
11 would enable them to maintain a majority for a
12 decade. So I didn't go into great detail because
13 of that reason.
14 Q So it wasn't worth the effort to explore this?
15 A Personally, if I thought there was any chance
16 whatsoever the Republicans would consider it, it
17 would be worth a great deal of effort.
18 Q But we don't know if they would have considered it,
19 because nobody asked them to?
20 A Well, we did ask them. As I indicated earlier in
21 the testimony, we asked them many times to consider
22 non-partisan alternatives, to consider giving
23 resources to us for legal and consulting groups,
24 for the public to hire people, so people could have
25 a process by which we could analyze these things,

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1 but it was pretty clear the reason why they didn't
2 do it is because it was their intent to pass
3 something that they alone would control, and it
4 would be for their personal and partisan benefit.
5 Q I can certainly understand your concern about the
6 process, but you never actually put an alternative
7 map in front of the Republicans for their
8 consideration; is that right?
9 A That's right, we really -- given the timeline from
10 when they released the map until we were ready to
11 adopt it, we didn't really have the time to put
12 together our own map, nor did we have the resources
13 to thoroughly analyze this type of map to know if
14 it would be appreciably better from all of the
15 various constitutional standards that you have to
16 look at.
17 Q Do you know if Wisconsin Democracy Campaign might
18 have known about the constitutional standards?
19 A I trust they made their best effort to try and
20 address those initiatives, but we would have by no
21 means to independently analyze that.
22 Q This appears to be a complete plan for the 33
23 Senate districts, yes?
24 A Yes, it does appear to be complete.
25 Q So presumably you could have asked them to brief

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1 you on what they considered to be the
2 constitutional implications of this map?
3 A Um-hum.
4 Q But you didn't?
5 A Not in any detail, no.
6 Q In any way at all?
7 A Not that I recall. My staff may have talked to
8 them about that. I wouldn't doubt that. They
9 typically will collect, you know, more data so that
10 they bring things together in the event that we,
11 you know, as legislators take an interest in
12 things, but no, I don't know offhand to what degree
13 they might have done that.
14 Q This is probably the most exciting part of this
15 video.
16 A Yes.
17 Q Mr. Barca, now in front of you is a map marked as
18 Exhibit 1041. Do you see that?
19 A Yes.
20 Q Do you know what this is?
21 A It's the same Wisconsin Democracy Campaign with the
22 Assembly version of the map. I looked at this in a
23 little more detail just because it involved the
24 Assembly, but not too much detail.
25 Q What kind of detail did you look at it?

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1 **A I probably spent 15 minutes looking at the other**
2 **map, and half hour looking at this map.**
3 **Q Did you ask the Wisconsin Democracy Campaign to**
4 **brief you on this map marked as Exhibit 1041?**
5 **A No. My answers for the Senate map would be**
6 **identical to the Assembly map. The only thing I**
7 **would say is I would be even more confident in the**
8 **Assembly that they would never consider an**
9 **alternative, just because I obviously worked on a**
10 **day-to-day basis with all the Assembly leaders, and**
11 **I know exactly the approach they take, which is**
12 **table every amendment and not give any due**
13 **consideration to anything other than what they put**
14 **forward.**
15 **Q So you decided not to even try?**
16 **A Again, we didn't have the resources to**
17 **independently analyze this in any detail. And**
18 **typically when any outside organizations, even**
19 **though you might be more sympathetic towards or**
20 **believe they're a similar mind frame to you, you at**
21 **least want to have some basis by which to have**
22 **independent knowledge of what's being presented,**
23 **because, you know, so you at least have some sense**
24 **of what it is you're offering.**
25 **Q But you decided not to even ask the Wisconsin**

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1 Democracy Campaign about the considerations that
2 went into drawing their map?
3 **A I didn't personally, not in any detail, no.**
4 **Q Let's take a look at a map that has been marked as**
5 **Exhibit 1042. Can you tell me if you've seen this**
6 **before?**
7 **A It doesn't immediately jump out at me. I'm not**
8 **sure what WDC is, Assembly. Wisconsin Democracy**
9 **Campaign again? I don't know.**
10 **Q You don't recall having seen this, though?**
11 **A No, I don't.**
12 **Q Do you know what this represents?**
13 **A Since it's not identified as clearly as the last**
14 **one, I'm not completely certain.**
15 **Q That's fair. Mr. Barca, what's in front of you is**
16 **a map marked 1043. Can you tell me if you've ever**
17 **seen this before?**
18 **A Again, because of the descriptor, WDC Senate, I**
19 **don't know what that represents, so I'm not**
20 **certain.**
21 **Q Because you've produced both 1043 and 1042 today,**
22 **is it fair to say that this would have been in your**
23 **office somewhere?**
24 **A I assume since we were able to pull it together,**
25 **unless we obtained it through some other source.**

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1 **I'm not sure. So I really don't know, to be frank**
2 **with you. And I may have seen it, but I don't know**
3 **what WDC means, and the way I typically -- because**
4 **I know the southeastern corner the best, I sort of**
5 **look at that first to try and surmise, okay, is**
6 **this -- because I know what the Republican map**
7 **looks like, obviously so I know it's not the**
8 **Republicans map, but I flipped through and I saw**
9 **it's not identical to the Wisconsin Democracy**
10 **Campaign, even though it says WDC, so I really**
11 **don't know.**
12 **Q Okay. Mr. Barca, I'm now going to show you a very**
13 **large chart marked as exhibit 1044. Can you tell**
14 **me if you've ever seen this before?**
15 **A I've seen grids like this before. I don't know if**
16 **I've ever seen this particular one. It's not**
17 **labeled, so I'm not sure. So I'm not sure if I've**
18 **ever seen this before, but I've seen these type of**
19 **grids before. I've never really gone into any**
20 **great detail here.**
21 **Q Do you know what kind of information this contains?**
22 **A Well, just looking at the bottom here, it looks**
23 **like you've got it by, you know, nationality or**
24 **race, black, Hispanic, Asian, American Indian,**
25 **Democrat, Republicans, total votes, percentage of**

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1 **votes, presidential election. It looks like it's**
2 **labeled based on percentage of Democratic and**
3 **Republican vote. So just basic demographics I**
4 **would speculate.**
5 **Q Do you have any idea why you'd have such a large**
6 **copy of this in your office?**
7 **A Well, I mean typically when you're looking at maps,**
8 **you try to get some idea, you know, of the**
9 **breakdown I would imagine, for instance, to analyze**
10 **the constitutional principle of what percentage**
11 **Hispanic or black, for instance, looking at that**
12 **from a minority standpoint it would represent. You**
13 **would want to have that kind of information. You'd**
14 **want to get some idea whether or not the district**
15 **is a competitive district, you look and see is it**
16 **50/50 or 53/47 or something, in terms of**
17 **demographics regarding -- I don't know if this**
18 **accounts for the issue of disenfranchising people**
19 **or not. I just didn't look at it in enough detail**
20 **to know, but basic information you'd want to have**
21 **about any map. So I would assume this represents**
22 **some map that somebody produced.**
23 **Q But you don't know what map it refers to?**
24 **A No, I don't know if this is the Democracy Campaign**
25 **or the Republicans map. I mean if you wanted me to**

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1 **look at it in more detail, I could look at my own**
2 **district and maybe try to figure it out a little**
3 **bit, but I don't know offhand, and it's not labeled**
4 **so.**
5 Q Okay. Is it possible this might be used for some
6 presentation or other with respect to
7 redistricting?
8 A **It could have been. I don't know, to be frank. I**
9 **don't recall it being used for presentation.**
10 Q You don't recall being in a meeting where there was
11 any charts displayed like this?
12 A **No. I mean I don't really recall like in caucus if**
13 **we ever pulled out something like this, but I know**
14 **that -- but I do know that like in terms of the**
15 **Republican map, I think we tried to get some basic**
16 **information like this. So I mean it's certainly**
17 **possible that, you know, we had some basic**
18 **information like this. I think, as I recollect, I**
19 **think they provided this to us for their map, but I**
20 **don't recall precisely.**
21 Q If the Republicans didn't provide any kind of
22 information to you about their maps, do you know if
23 there is any place you could have gone to get it?
24 A **I don't know. I don't know how precise the**
25 **computer equipment is. Like the LCSB has equipment**

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1 **that you're able to get some sense of that, but**
2 **don't know how that works. To be frank, I'm not**
3 **technically proficient in using these things at**
4 **all.**
5 Q Mr. Barca, this is a chart that has been marked as
6 1045. Can you tell me if you've ever seen this?
7 A **Basically the same answer as before, only because**
8 **it's for the Senate, because you can see there is**
9 **33 districts, I would even know less about this.**
10 Q Okay. This is our last one. Now before you, Mr.
11 Barca, is a chart marked as Exhibit 1046. Can you
12 tell me if you've ever seen this before?
13 A **Similar response, same as the last two. It's not**
14 **clearly identified what this represents. It looks**
15 **very similar to the other ones, so I don't know if**
16 **it's the similar data, different data. I don't**
17 **know if -- I would have no idea other than I see**
18 **it's color coded so it's at least a little easier**
19 **to look at, but I don't recall this any more than**
20 **the others.**
21 Q Okay. Enough with these big things.
22 A **Okay.**
23 Q Just a few final thoughts. Are you familiar with a
24 program called Auto Bound?
25 A **No.**

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1 Q Do you know if there are computer systems made
2 available to the Assembly and Senate caucuses with
3 which to draw proposed legislative district maps?
4 A **I do know that LCSB had some sort of computer**
5 **system with software that was available for looking**
6 **at data. That I do know. I don't know if Auto**
7 **Bound was one of them, you know, or not one of**
8 **them. I never personally tried to manipulate it or**
9 **understand it.**
10 Q For the Assembly Democratic caucus -- let me back
11 up. I'm getting ahead of myself. Do you know if a
12 computer system was made available specifically to
13 the Assembly Democratic caucus with which to draw
14 up proposed maps?
15 A **Yes, I believe it was.**
16 Q When was that made available?
17 A **I really don't have any recollection if that was in**
18 **April or May, June. I just don't know.**
19 Q Who was responsible in the Assembly Democratic
20 caucus for that computer system?
21 A **You know, I think Fred Kessler was primarily**
22 **involved in that, that handled it, had the best**
23 **facility. I think Matt in my office did as well.**
24 Q And which of the Assembly, which of the members of
25 the Assembly Democratic caucus engaged in map

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1 drawing with that computer system?
2 A **I know Frank Kessler is the most knowledgeable with**
3 **these kinds of things. He's drawn maps over I**
4 **think 20 or, probably 30-year period, back into the**
5 **'60s. He does this for fun, much like we go and**
6 **work out. So he's -- you know, I think he was**
7 **drawing maps three years ago, so you know, he would**
8 **be the one that would be most adept at using this.**
9 **But in terms of drawing a map, we never really**
10 **asked him to draw any specific map or said, look,**
11 **we're going to substitute a map that we're going to**
12 **present, just because we didn't think we had the**
13 **wherewithal to do that.**
14 Q Do you know if Mr. Kessler took the initiative to
15 draw any maps?
16 A **He draws map, as I indicated, all the time. He**
17 **just loves drawing maps. Should have been a**
18 **cartographer. So I mean but in terms of I know**
19 **he's -- you know, like I said, he had maps drawn in**
20 **the previous legislative session, so I mean he has**
21 **his own equipment and he does it sort of on the**
22 **side as well.**
23 Q Did anyone in the Assembly Democratic caucus think
24 to ask him, perhaps he might think about drawing a
25 map for the Assembly Democrats?

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1 **A** Well, the concern with asking him to draw an
 2 **official map for the Assembly Democrats is just we**
 3 **didn't have the resources by which to analyze the**
 4 **information thoroughly, and so the problem was that**
 5 **we never thought a map would be actually seriously**
 6 **considered, but even if we could have, you know, as**
 7 **I indicated previously, we didn't have the legal**
 8 **resources. We didn't have the consultants to be**
 9 **able to look at this, and so it would have been**
 10 **very difficult to get our caucus to ever buy into a**
 11 **map without that kind of expertise available to us.**
 12 **Q** Well, you mentioned that Mr. Kessler draws maps for
 13 fun.
 14 **A** Um-hum.
 15 **Q** Presumably he has some facility to do it?
 16 **A** He does have some facility. The concern is that
 17 people always want -- similar to the way I
 18 expressed with the Wisconsin Democracy Campaign,
 19 people like to have expert information in front of
 20 them. People's trust level is not always real high
 21 with any one individual member of the caucus or any
 22 one outside group, so you know without having sort
 23 of that independent assessment to be able to
 24 process the information, it would be very difficult
 25 to get by all our caucus members.

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1 **Q** Do you know how many maps he drew?
 2 **A** I have no idea.
 3 **Q** Would it have been possible for Mr. Kessler to draw
 4 a map and then talk to someone at say University of
 5 Wisconsin who is schooled in matters of
 6 redistricting about the map that he drew?
 7 **A** Well, I mean certainly he could draw a map and talk
 8 to anybody, I mean at the University of Wisconsin,
 9 Marquette, UWGB, any place. Anybody could do that.
 10 I mean I don't have the facility to really draw a
 11 map. I'm sure if I spent some time learning the
 12 process, I could draw a map and talk to somebody,
 13 too.
 14 **Q** I'm just wondering about opportunities. So Mr.
 15 Kessler likes to draw maps. Do you think he might
 16 be able to find someone at say, UWM who would be
 17 able to opine on the validity or solidity of the
 18 maps that Mr. Kessler likes to draw?
 19 **A** I don't know the degree of expertise would be of
 20 UW-Milwaukee, for instance. I just don't know
 21 enough about who really has expertise or who would
 22 be willing to do that on a pro bono basis and
 23 certainly anybody that, you know, would be
 24 considered expert enough to rely on their advice.
 25 **Q** Did you ask anybody to explore that?

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1 **A** No.
 2 **Q** Did anybody in the Assembly Democratic caucus ask
 3 anyone to explore that?
 4 **A** That I don't know. I don't know if anybody
 5 independently was out there talking to the people.
 6 I'm not sure. The only thing I would say, though,
 7 is, as I indicated much earlier in my testimony,
 8 you know, this process is one that does require
 9 considerable amount of expertise to make sure that
 10 whatever map you draw passes constitutional muster
 11 on the factors that we talked about, and then
 12 secondly, when you draw maps, it's a very -- it
 13 gets to be a very edgy process, you know, amongst
 14 various people in terms of not only whether their
 15 district meets the community of interest test as
 16 they would define it or Hispanics, making sure that
 17 they feel comfortable that they've got a proper
 18 representation for their proportion of the
 19 population or African-Americans.
 20 **MR. KELLY:** Very good. If you'll give me
 21 a couple of minutes, we can decide if we have
 22 anything else. We probably shouldn't.
 23 **THE VIDEOGRAPHER:** We are off the record
 24 at 2:18 p.m.
 25 (Short break taken.)

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1 **THE VIDEOGRAPHER:** We are back on the
 2 report at 2:20 p.m.
 3 **BY MR. KELLY:**
 4 **Q** Mr. Barca, you have in front of you some papers
 5 that you've been taking notes on and that you
 6 brought with you today?
 7 **A** Um-hum.
 8 **Q** I'd like to have those marked as an exhibit. So if
 9 we could go with our next exhibit. And you have a
 10 cocktail napkin that you have some notes on.
 11 **A** Sure.
 12 **Q** We'll mark that as 1048.
 13 **A** All right.
 14 **Q** I'm a pack rat when it comes to such things. What
 15 else do you have in front of you today?
 16 **A** This is a private thing that has nothing to do with
 17 what we're doing, and this I just put down the
 18 Senate bill up at the top.
 19 **Q** Let's just get these two marked as exhibits.
 20 (Exhibit Nos. 1047 and 1048 were marked.)
 21 **MR. KELLY:** Thank you. I have nothing
 22 further.
 23 **THE VIDEOGRAPHER:** Then this concludes
 24 the deposition. We are off the record at 2:22 p.m.
 25 This is the end of disk number two.

1 STATE OF WISCONSIN)
2 COUNTY OF MILWAUKEE) ss:
3

4

5

6 I, JACQUELINE R. RUPNOW, a Registered
7 Professional Reporter and Notary Public in and for the
8 State of Wisconsin, do hereby certify that the above
9 deposition of REPRESENTATIVE PETER BARCA was recorded by
10 me on January 31, 2012, and reduced to writing under my
11 personal direction.

12 I further certify that I am not a
13 relative or employee or attorney or counsel of any of
14 the parties, or a relative or employee of such attorney
15 or counsel, or financially interested directly or
16 indirectly in this action.

17 In witness whereof I have hereunder set
18 my hand and affixed my seal of office at Milwaukee,
19 Wisconsin, this 8th day of February, 2012.

20

21

22 _____
23 Notary Public
24 In and for the State of Wisconsin

25

26 My Commission Expires: November 11, 2012.

Peter Barca - January 31, 2010
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